REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED
31 MARCH 2008

(REVENUE RECEIPTS)

GOVERNMENT OF TAMIL NADU

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PREFACE

This report for the year ended 31 March 2008 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising sales tax, land revenue, stamp duty and registration fees, taxes on vehicles, urban land tax and non-tax receipts.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2007-08 as well as those noticed in earlier years, but could not be included in the previous years' reports.

OVERVIEW

The report contains 33 paragraphs including three reviews relating to non/ short levy of taxes, interest, penalty, etc. involving Rs. 408.47 crore. Some of the major findings are mentioned below:

I General

The revenue raised by the State during 2007-08 was Rs. 47,520.51 crore, comprising of Rs. 29,619.10 crore as tax revenue and Rs. 3,304.37 crore as non-tax revenue. Rs. 8,065.27 crore was received from the Government of India as State's share of divisible Union taxes and Rs. 6,531.77 crore as grants-in-aid. The revenue raised by the State Government in 2007-08 was 69 *per cent* of the total revenue receipts as compared to 76 *per cent* in 2006-07. Sales tax (Rs. 18,156.36 crore) formed a major portion (61 *per cent*) of the tax revenue of the State. Interest receipts, dividends and profits (Rs. 1,282.20 crore) accounted for 39 *per cent* of the non-tax revenue.

(Paragraph 1.1)

At the end of 2007-08, arrears in respect of taxes administered by the departments of Commercial Taxes, Revenue, Home, etc., amounted to Rs. 8,560.51 crore; of which sales tax alone accounted for Rs. 8,221.59 crore.

(Paragraph 1.4)

Test check of the records relating to sales tax, state excise, land revenue, urban land tax, taxes on vehicles and other departmental offices conducted during the year 2007-08 revealed underassessments, short levy, loss of revenue and other observations amounting to Rs. 760.93 crore in 2,167 cases.

(Paragraph 1.9)

As at the end of June 2008, 7,271 inspection reports containing 23,624 audit observations involving Rs. 2,951.86 crore were outstanding in various departments.

(Paragraph 1.10)

II Sales Tax

In three assessment circles, incorrect exemption of local and inter state sales of matches valued at Rs. 117.50 crore resulted in non-levy of tax of Rs. 12.69 crore.

(Paragraph 2.2.2)

In three assessment circles, incorrect assessment of goods sold under the brand names by four dealers resulted in short levy of tax of Rs. 6.63 crore.

(Paragraph 2.3)

Non-levy of tax on Rs. 165.34 crore received by eight producers of teleserials towards lease of their serials from various television channels resulted in non-realisation of revenue of Rs. 19.94 crore.

(Paragraph 2.5.1)

Erroneous treatment of sale as works contract resulted in short levy of tax of Rs. 4.51 crore.

(Paragraph 2.6)

In five assessment circles, there was non/short levy of additional sales tax of Rs. 1.03 crore.

(Paragraph 2.7)

III Taxes on vehicles

Review on Receipts from Motor Vehicles Tax

- Non-registration of 827 canvassers and 237 travel agents under the Motor Vehicles Act 1988 resulted in loss of revenue of Rs. 4.22 crore besides non-bringing them into the system.

(Paragraph 3.2.7)

- Failure to raise demand for life time tax in respect of 2,300 vehicles resulted in non-realisation of revenue of Rs. 3.18 crore.

(Paragraph 3.2.10)

- Failure to levy appropriate tax in respect of 1.57 lakh permits issued to spare buses of stage carriages, which operated as contract carriages under temporary permits, resulted in loss of revenue of Rs. 233.36 crore.

(Paragraph 3.2.13)

IV Stamp Duty and Registration Fees

Computerisation of the Registration Department

- Computerisation of the Registration Department has not been fully completed, though started in 2001.

(Paragraph 4.2.4.1)

- Digital/web cameras and bio-metric devices purchased for a sum of Rs.85.61 lakh could not be put to use for want of necessary software.

(Paragraph 4.2.4.2)

- Lack of interconnectivity of the sub-registrar offices with the concerned taluk offices resulted in continued registration of the government lands in the name of private individuals.

(Paragraph 4.2.4.3)

- Absence of provisions in the system resulted in manual intervention in collection of stamp duty in case of partition and excess allocation of surcharge to local bodies etc.

(Paragraph 4.2.5)

- Absence of input controls and validation checks led to less assurance regarding completeness and validity of data.

(Paragraph 4.2.7)

- Inadequate security controls resulted in modification of the registration details without authorisation by superior officers.

(Paragraph 4.2.8)

Incorrect grant of exemption on sale of land by 100 members to four housing societies resulted in non-realisation of stamp duty of Rs. 3.13 crore.

(Paragraph 4.3)

In three registration offices due to under valuation of property, there was short levy of stamp duty and registration fees of Rs. 6.93 crore.

(Paragraph 4.4)

In five registration offices, in respect of 11 instruments, incorrect classification of security mortgage deeds as mortgage deeds resulted in short collection of registration fees of Rs. 3.83 crore.

(Paragraph 4.7.1)

In 12 registration offices, in 23 sale deeds and four lease deeds, due to omission to include the value of windmills in the instruments, there was under valuation of properties resulting in short levy of stamp duty and registration fees of Rs. 12.96 crore.

(Paragraph 4.11.1)

V Other Tax and Non-Tax Receipts

Land Revenue

In two taluks due to delay in fixing the cost of lands alienated, the cost of land of Rs. 3.09 crore was not realised.

(Paragraph 5.4)

Mines and Minerals

In two offices of the Assistant Director of Geology and Mining, due to adoption of incorrect rate, there was short collection of royalty of Rs. 1.04 crore.

(Paragraph 5.5)

Forest Receipts

- Out of 29 territorial forest divisions in the State, 16 divisions did not have working plans for management of the forests. This resulted in non-realisation of the revenue from timber operations and stalling of the regeneration activities in the forest.

  (Paragraph 5.6.7)

- There was short demand of lease rent amounting to Rs. 2.03 crore in five cases.

  (Paragraph 5.6.8.1)

- There was short realisation of lease rent amounting to Rs. 69.94 crore from two clubs, due to adoption of incorrect rates.

  (Paragraph 5.6.14)

- There was loss of revenue of Rs. 6.67 crore due to inconsistency in determining the sale price of sandalwood.

  (Paragraph 5.6.15.1)

CHAPTER I

GENERAL

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Tamil Nadu and the state's share of divisible Union taxes and grants-in-aid received from the Government of India during the year 2007-08 and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.	Particulars	2003-04	2004-05	2005-06	2006-07	2007-08
I	**Revenue raised by the Government of Tamil Nadu**					
	• Tax revenue	15,944.97	19,357.04	23,326.03	27,771.15	29,619.10
	• Non-tax revenue[1]	2,093.79 (2,058.53)	2,208.35	2,600.75	3,422.57	3,304.37
	Total	**18,038.76 (18,003.50)**	**21,565.39**	**25,926.78**	**31,193.72**	**32,923.47**
II	**Receipts from the Government of India**					
	• State's share of divisible Union taxes	3,544.20	4,236.39	5,012.74	6,393.86	8,065.27[2]
	• Grants-in-aid	2,122.75	2,649.75	3,020.47	3,325.65	6,531.77
	Total	**5,666.95**	**6,886.14**	**8,033.21**	**9,719.51**	**14,597.04**
III	**Total receipts of the State [(I) + (II)]**	23,705.71 (23,670.45)	28,451.53	33,959.99	40,913.23	47,520.51
IV	**Percentage of I to III**	**76**	**76**	**76**	**76**	**69**

The above table indicates that during the year 2007-08, the revenue raised by the State Government was 69 *per cent* of the total revenue receipts (Rs. 47,520.51 crore) as compared to 76 *per cent* of the total revenue receipts (Rs.40,913.23 crore) in 2006-07. The balance 31 *per cent* of the receipts during 2007-08 was obtained from the Government of India.

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1 Figures in bracket represent non-tax revenue including receipts from lotteries net of expenditure on prize winning tickets.

2 For details please see Statement No.11 – Detailed accounts of revenue by minor heads of the Finance Accounts of the Government of Tamil Nadu for the year 2007-08. Figures under the head '0021 – Taxes on income other than corporation tax – Share of net proceeds assigned to States' booked in the Finance Accounts under 'A – Tax revenue' have been excluded from the revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

1.1.1 The following table presents the details of tax revenue raised during the period 2003-04 to 2007-08:

(Rupees in crore)

Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Sales tax	11,004.63	12,996.18	15,554.69	17,727.16	18,156.36	2
2.	State excise	1,657.10	2,549.00	3,176.65	3,986.42	4,764.06	20
3.	Stamp duty and registration fees	1,316.40	1,604.36	2,084.86	2,997.46	3,804.74	27
4.	Taxes on vehicles	934.29	1,014.75	1,124.93	1,260.88	1,483.21	18
5.	Land revenue	17.50	71.95	179.48	120.68	78.03	(-) 35
6.	Taxes on agricultural income	1.25	0.59	0.13	0.07	0.11	57
7.	Taxes on immovable property other than agricultural land (urban land tax)	12.03	11.81	11.86	14.45	15.75	9
8.	Others	1,001.77	1,108.40	1,193.43	1,664.03	1,316.84	(-) 21
	Total	**15,944.97**	**19,357.04**	**23,326.03**	**27,771.15**	**29,619.10**	

The reasons for increase/decrease in 2007-08 over 2006-07 as furnished by the departments are mentioned below:

State excise: The increase was attributed to considerable increase in volume of sale of Indian made foreign liquor and spirits and malt liquor.

Stamp duty and registration fees: The increase was mainly due to more receipts under 'Stamps-Non judicial', 'Registration Fees' and 'Stamps-judicial'.

Taxes on vehicles: The increase was mainly due to more receipts under the Indian Motor Vehicles Act and the State Motor Vehicles Taxation Act.

The other departments did not inform (November 2008) the reasons for variations, despite being requested (April 2008).

1.1.2 The following table presents the details of major non-tax revenue raised during the period 2003-04 to 2007-08:

(Rupees in crore)

Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Interest receipts, dividends and profits	559.74	590.05	819.91	1,134.00	1,282.20	13
2.	Crop husbandry	61.61	57.27	66.43	74.45	82.41	11
3.	Forestry and wild life	90.21	155.07	138.59	82.31	46.42	(-) 44
4.	Non-ferrous mining and metall-urgical industries	377.54	409.58	465.68	566.64	581.76	3
5.	Education, sports, art and culture	122.58	143.43	209.98	215.83	301.40	40
6.	Other receipts						
	• State lotteries	22.18	---	----	-----	-----	----
	• Others	859.93	852.95	900.16	1,349.34	1,010.18	(-) 25
	Total	**2,093.79**	**2,208.35**	**2,600.75**	**3,422.57**	**3,304.37**	

The reason for increase in 2007-08 over 2006-07 as furnished by the Education Department is mentioned below:

Education, sports, art and culture: The increase was mainly due to more receipts under 'Technical Education', 'General Education' and 'Art and culture'.

The other departments did not inform (November 2008) the reasons for variations, despite being requested (April 2008).

1.2 Variations between the budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2007-08 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget estimates	Actuals	Variations excess (+) or short fall (-)	Percent-age of variation
1.	Sales tax	20,030.84	18,156.36	(-) 1,874.48	(-) 9
2.	State excise	4,370.12	4,764.06	393.94	9
3.	Stamp duty and registration fees	3,258.88	3,804.74	545.86	17
4.	Taxes on vehicles	1,410.22	1,483.21	72.99	5
5.	Land revenue	70.77	78.03	7.26	10
6.	Taxes on immovable property other than agricultural land (urban land tax)	17.09	15.75	(-) 1.34	(-) 8
7.	Taxes and duties on electricity	250.00	37.22	(-) 212.78	(-) 85
8.	Interest receipts, dividends & profits	857.16	1,282.20	425.04	50
9.	Non-ferrous mining and metallurgical industries	667.30	581.76	(-) 85.54	(-) 13
10.	Crop husbandry	72.30	82.41	10.11	14
11.	Roads and bridges	24.32	39.92	15.60	64
12.	Major and medium irrigation	20.97	19.14	(-) 1.83	(-) 9

The following reason for variation was reported by the Energy Department:

Taxes and duties on electricity: The decrease was due to the reason that the tax on electricity collected by Tamil Nadu Electricity Board has not been paid into the Government account.

The other departments did not inform (November 2008) the reasons for variations, despite being requested (April 2008).

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and percentage of such expenditure to gross collection, during the years 2005-06, 2006-07 and 2007-08 along with the relevant all India average percentage of expenditure on collection to gross collection for 2006-07 are as follows:

(Rupees in crore)

Sl. No.	Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2006-07
1.	Sales tax	2005-06	15,554.69	106.64	0.69	
		2006-07	17,727.16	120.96	0.68	0.82
		2007-08	18,156.36	139.24	0.77	
2.	Taxes on vehicles	2005-06	1,124.93	49.50	4.40	
		2006-07	1,260:88	30.43	2.41	2.47
		2007-08	1,483.21	40.44	2.73	
3.	State excise	2005-06	3,176.65	27.76	0.87	
		2006-07	3,986.42	33.11	0.83	3.30
		2007-08	4,764.06	38.64	0.81	
4.	Stamp duty and registration fees	2005-06	2,084.86	86.83	4.16	
		2006-07	2,997.46	106.89	3.57	2.33
		2007-08	3,804.74	133.84	3.52	

The percentage of expenditure on collection in respect of stamp duty and registration fees and taxes on vehicles in the state was higher than the all India average.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue amounted to Rs. 8,560.51 crore, of which Rs. 3,250.91 crore were outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2008	Amount outstanding for more than 5 years as on 31 March 2008	Remarks
1	2	3	4	5
1.	Sales Tax	8,221.59	3,091.03	Out of Rs. 8,221.59 crore, demands amounting to Rs. 1,901.04 crore were covered under the Revenue Recovery Act. Demands amounting to Rs. 1,202.13 crore were stayed by the Government/High Court and other judicial/appellate forums. Rs. 57.15 crore could not be recovered on account of assessees becoming insolvent. A sum of Rs. 691.13 crore is likely to be written off/waived. An amount of Rs. 2,106.02 crore was covered under the deferral scheme and a sum of Rs. 2,264.12 crore was under various stages of recovery.
2.	Stamp duty and registration fees	148.81	63.56	Out of Rs. 148.81 crore, demands amounting to Rs. 142.91 crore were covered under the Revenue Recovery Act. Demands amounting to Rs. 5.90 crore were stayed by the High court and other judicial authorities.
3.	Urban land tax	113.61	37.32	Demands amounting to Rs. 14.27 crore were stayed by the Government/High Court and other judicial authorities. Recovery of Rs. 4.50 crore was stayed by the Principal Commissioner of Land Reforms. Rs. 88.26 crore was under various stages of collection. Rs. 6.58 crore has since been collected.

4.	State excise	39.87	39.87	Out of Rs. 39.87 crore, demands amounting to Rs. 15.74 crore were covered under the Revenue Recovery Act; demands amounting to Rs. 1.90 crore were stayed by the High Court and other judicial authorities; Rs. 4.12 crore was held up due to rectification/review application. Rs. 28.10 lakh was held up on account of persons becoming insolvent. Rs. 11.89 crore was under various stages of collection. Rs. 5.94 crore has since been collected.
5.	Land revenue	33.53	16.24	Out of Rs. 33.53 crore, demands amounting to Rs. 4.06 crore were covered under the Revenue Recovery Act. Demands amounting to Rs. 3.79 crore were stayed by the High Court and other judicial authorities and Rs. 3.38 crore was stayed by the Government. Rs. 19.36 lakh is likely to be written off. Rs. 17.57 crore was under various stages of collection. Rs. 4.54 crore has since been collected.
6.	Taxes on vehicles	3.10	2.89	Out of Rs. 3.10 crore, demands amounting to Rs. 11.98 lakh were covered under the Revenue Recovery Act. Demands amounting to Rs. 32.91 lakh were stayed by the High Court and other judicial authorities. Rs. 2.26 crore is likely to be written off. Rs. 15.08 lakh was under various stages of collection. Rs. 23.63 lakh has since been collected.
	Total	**8,560.51**	**3,250.91**	

The position of arrears of revenue at the end of 2007-08 in respect of other departments was not furnished (November 2008) despite being requested (April 2008).

1.5 Arrears in assessment

The number of cases pending for assessment at the beginning of the year 2007-08, becoming due during the year, disposed during the year and pending for finalisation at the end of the year 2007-08 alongwith the figures for the preceding four years as furnished by the Commercial Taxes Department in respect of sales tax and Revenue Department in respect of urban land tax are mentioned below:

Heads of revenue	Opening balance	Cases which became due for assess-ment	Total	Cases disposed during the year	Cases pending at the end of the year	Percentage of disposal (Col.5 to 4)
1	2	3	4	5	6	7
2003-04						
Sales tax	48,499	1,64,397	2,12,896	1,59,363	53,533	75
Urban land tax	4,421	1,583	6,004	911	5,093	15
2004-05						
Sales tax	53,533	1,71,052	2,24,585	1,70,293	54,292	76
Urban land tax	5,093	2,227	7,320	1,383	5,937	19
2005-06						
Sales tax	54,292	1,77,496	2,31,788	1,62,872	68,916	70
Urban land tax	5,937	3,812	9,749	2,101	7,648	22
2006-07						
Sales tax	68,916	1,82,457	2,51,373	1,51,825	99,548	60
Urban land tax	7,648	2,076	9,724	2,974	6,750	31
2007-08						
Sales tax	99,548	1,78,414	2,77,962	76,814	2,01,148	28
Urban land tax	6,750	1,583	8,333	2,253	6,080	27

1.6 Evasion of tax

The details of cases of evasion of sales tax detected, sales tax cases finalised and demands for additional tax raised as reported by the Commercial Taxes Department are mentioned below:

Head of revenue	Cases pending as on 31 March 2007	Cases detected during 2007-08	Total cases	Cases in which assessments/ investigations completed and additional demand including penalty etc., raised		Cases pending for finalisation as on 31 March 2008
				No.	Amount (Rupees in crore)	
Sales tax						
Enforcement wing	281	30	311	243	NF	68
Administrative wing	6,434	1,534	7,968	3,888	23.04	4,080
NF – Not furnished.						

It is necessary to finalise these cases at the earliest to minimise the risk of loss of revenue.

1.7 Write off and waiver of revenue

During the year 2007-08, Rs. 2.02 lakh (in 19 cases) relating to sales tax was written off by the Commercial Taxes Department as irrecoverable. Reasons for the write off as reported are mentioned below:

(Rupees in lakh)

Sl. No.	Reasons	No. of cases	Amount
1.	Defaulters' whereabouts not known	15	1.97
2.	Defaulters not having any property	4	0.05
Total		**19**	**2.02**

In addition to the above, sales tax amounting to Rs. 86.44 lakh in 46 cases was waived by the department during the year.

1.8 Refunds

The number of refund cases pending at the beginning of the year (1 April 2007), claims received during the year, refunds allowed during the year and cases pending at the close of the year (31 March 2008) as reported by the departments are mentioned below:

(Rupees in crore)

Sl. No	Particulars	Sales tax		Taxes on vehicles	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	83,155	185.70	41	0.13
2.	Claims received during the year	13,844	84.55	1,237	199.26
3.	Refunds made during the year	9,937	57.40	1,007	131.81
4.	Balance outstanding at the end of the year	87,062	212.85	271	67.58

Tamil Nadu General Sales Tax Act (TNGST Act) provides for payment of interest calculated at the rate of one *per cent* or part thereof, if the excess amount is not refunded to the dealer within 90 days from the date of order of assessment or revision of assessment or within 90 days from the date of receipt of order passed in appeal, revision or review. The pending refund cases need attention to avoid mandatory payment of interest.

1.9 Results of audit

Test check of the records of sales tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax and non-tax receipts conducted during 2007-08 revealed underassessment, short levy, loss of revenue and other observations amounting to Rs. 760.93 crore in 2,167 cases. During the year, the departments accepted underassessment of Rs. 12.54 crore in 1,506 cases pointed out in 2007-08 and earlier years and recovered/adjusted Rs. 8.76 crore.

This Report contains 33 paragraphs including three reviews relating to non/short levy of taxes, duties, interest and penalties and other audit observations involving revenue of Rs. 408.47 crore. The departments/ Government accepted audit observations involving revenue of Rs. 96.20 crore, of which Rs. 2.47 crore had been recovered/adjusted by the departments upto September 2008. Final reply has not been received in respect of the remaining cases (November 2008).

1.10 Failure to enforce accountability and protect interest of the Government

Audit observations on incorrect assessments, short levy of taxes, duties and fees, etc., as also defects in the maintenance of initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities through inspection reports. Serious financial irregularities are reported to the heads of the departments concerned and the

Government. The heads of offices are required to furnish replies to the inspection reports through their respective heads of departments within a period of two months.

1.10.1 The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 2007, which were pending for settlement by the departments as on 30 June 2008, along with the corresponding figures for the preceding two years are mentioned below:

	Position as on 30 June		
	2006	2007	2008
Number of inspection reports pending for settlement	6,708	6,638	7,271
Number of outstanding audit observations	22,549	23,047	23,624
Amount of revenue involved (Rs.in crore)	2,556.70	2,772.37	2,951.86

The increase in the outstanding audit observations is indicative of non-compliance with the Government's instruction to furnish replies to the initial audit observations and report on further action taken thereon within the stipulated time. Though State level audit committees and departmental audit committees were constituted in March 1993 with the objective of expeditious settlement of the outstanding observations, the number of observations were still on the increase.

1.10.2 Revenue headwise breakup of the inspection reports and audit observations outstanding as on 30 June 2008 is mentioned below:

Sl. No.	Revenue heads	Number of outstanding		Amount (Rupees in crore)	Earliest year to which the inspection report relates
		Inspection reports	Audit obser-vations		
1.	Sales tax	3,169	15,646	908.41	1987-88
2.	Stamp duty and registration fees	988	1,532	146.69	1984-85
3.	Land revenue	807	2,020	1,193.29	1988-89
4.	Taxes on vehicles	476	927	86.36	1983-84
5.	State excise	299	569	129.54	1987-88
6.	Taxes on agricultural income	86	227	81.49	1986-87

7.	Mines and minerals	278	627	302.61	1989-90
8.	Urban land tax	247	667	36.62	1983-84
9.	Electricity duty	71	132	44.20	1986-87
10.	Entertainment tax	103	123	8.07	1992-93
11.	Luxury tax	238	259	0.57	1997-98
12.	Betting tax	12	24	0.09	2003-04
13.	Entry tax	497	871	13.92	2003-04
	Total	**7,271**	**23,624**	**2,951.86**	

1.11 Departmental audit committee meeting

During the course of the year 2007-08, 14 meetings were held in respect of paras pertaining to sales tax, land revenue, transport and prohibition and excise. 310 paras involving a revenue of Rs. 6.39 crore were settled during these meetings.

1.12 Response of the department/Government to the draft audit paragraphs

The Government (Finance Department) had issued directions (April 1952) to all the departments to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs are forwarded to the secretaries of the concerned departments through demi official letters, drawing their attention to the audit findings and requesting them to send their response within six weeks from the date of receipt of the draft paragraphs. The fact of non-receipt of replies from the departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

68 draft paragraphs (combined into 33 paragraphs including three reviews of this report) proposed to be included in this Report were forwarded to the secretaries of the respective departments during the period from April to June 2008, through demi official letters followed by reminders in September 2008.

The secretaries of the departments did not send replies to 62 draft paragraphs including one review. These paragraphs have been included in this report without the response of the secretaries of the departments.

1.13 Follow-up on Audit Reports – summarised position

With a view to ensure accountability of the executive in respect of the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC) directed that the concerned departments should furnish remedial/corrective action taken notes (ATN) on its recommendations within the prescribed time frame.

A review of the outstanding ATNs as of 31 March 2008 on paragraphs included in the Report of the Comptroller and Auditor General of India, Revenue Receipts, Government of Tamil Nadu and discussed by the PAC revealed that the departments had not submitted the ATNs in respect of 1,076 recommendations pertaining to 491 audit paragraphs.

Further, the PAC has also laid down that necessary explanatory notes for the issues mentioned in the Audit Reports should be furnished to the committee within a maximum period of two months from the date of placing the Reports before the legislature. Though the Audit Reports for the years from 1998-99 to 2006-07 were placed before the Legislative Assembly between May 2000 and May 2008, the departments are yet to submit explanatory notes for 94 paragraphs (including 15 reviews) included in these reports.

1.14 Recovery of revenue of accepted cases

In respect of paragraphs featured in the Audit Reports 2002-03 to 2006-07, the department/Government accepted audit observations involving Rs. 201.72 crore of which only Rs. 74.83 crore had been recovered till 31 August 2008 as mentioned below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2002-03	1,032.59	91.18	5.66
2003-04	815.05	26.00	0.58
2004-05	576.20	5.07	2.68
2005-06	228.71	3.79	1.92
2006-07	151.38	75.68	63.99
Total	**2,803.93**	**201.72**	**74.83**

1.15 Amendment to Acts/Rules

- Exemption was granted to wheat bran under entry 57(v) of the Third Schedule to the TNGST Act. Audit pointed out that this exemption was conditional and therefore, suggested that inter state sales should be assessed to tax (Para 2.2.5 of the Audit Report for the year 2002-03). The Government accepted the audit observation and amended the entry 57(v) of the third schedule by issue of notification in December 2006 granting unconditional exemption to wheat bran with retrospective effect.

- Transfer of properties between parent company and its wholly owned subsidiary company was exempted from levy of stamp duty. Audit pointed out that as the exemption was unconditional, it was used as a tool to avoid stamp duty (Para 3.2.7 of the Audit Report for the year 2005-06). After this was pointed out, the Government withdrew the exemption.

CHAPTER II

SALES TAX

2.1 Results of audit

Test check of the records of the departmental offices conducted during the period from April 2007 to March 2008 revealed underassessments, non-levy of penalty and other observations amounting to Rs. 297.69 crore in 1,386 cases, which broadly fall under the following categories.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1.	Incorrect exemption from levy of tax	291	194.38
2.	Application of incorrect rate of tax	432	38.07
3.	Non-levy of penalty/interest	333	15.54
4.	Incorrect computation of taxable turnover	165	10.44
5.	Non/short levy of tax	86	12.29
6.	Other irregularities	79	26.97
	Total	**1,386**	**297.69**

During the course of the year 2007-08, the department accepted under assessments and other deficiencies amounting to Rs. 5.44 crore in 1,049 cases, out of which, Rs. 2.32 crore involved in 421 cases were pointed out during the year and the rest in earlier years. Of these, the department recovered Rs. 3.01 crore during the year.

A few illustrative cases involving Rs. 50.77 crore are discussed in the following paragraphs:

2.2 Incorrect grant of exemption from levy of tax

2.2.1 According to Section 3(2-C) of the Tamil Nadu General Sales Tax Act, 1959 (TNGST Act) read with entry 9 of the eleventh schedule, imported textiles are taxable at the rate of 20 *per cent* at the point of first sale in the State. Surcharge is leviable at the rate of five *per cent* on the tax.

Test check of the records in Thirupparankundram assessment circle revealed that the assessing officer (AO), while finalising the assessment of a dealer for the year 2004-05 in January 2006, had incorrectly exempted imported textiles valued at Rs. 32.97 lakh from levy of tax at the point of first sale. This resulted in non-levy of tax of Rs. 6.87 lakh (inclusive of surcharge).

After the case was pointed out in March 2007, the AO replied that the assessment had been revised in May 2007. Report regarding collection of the additional demand has not been received (November 2008).

The matter was reported to the Government in February 2008; their reply has not been received (November 2008).

2.2.2 Under the TNGST Act, machine made matches are taxable at the rate of 10 *per cent* at the point of first sale inside the State. Hand made matches and partly machine made matches are exempted from levy of tax. The term 'partly machine made matches' has neither been defined in the Act nor any parameters have been set to identify such matches.

Under the Central Sales Tax Act, 1956 (CST Act), exemption on inter state sale is available if the commodities are generally exempted under the State Sales Tax Act. Inter state sale of goods not covered by valid declarations in form 'C' is assessable to tax at the rate applicable to the sale of such goods inside the state or 10 *per cent*, whichever is higher. The element of surcharge is also to be taken into account to arrive the tax.

2.2.2.1 Test check of the records in three[1] assessment circles revealed that the AOs, while finalising the assessments of eight dealers for the years 2003-04 to 2005-06 between December 2004 and March 2007, had exempted the local sale of matches valued at Rs. 43.86 crore from levy of tax treating the matches as partly machine made matches. Similarly, inter state sales turnover of Rs. 41.08 crore was allowed exemption from levy of tax. This resulted in short realisation of revenue of Rs. 9.02 crore.

Audit scrutiny of the accounts of the dealers revealed that the dealers had purchased machinery and utilised the same in the entire processes involved in the manufacture of matches, viz., frame filling, chemical grinding, dipping of the splints in the chemical composition for match heads, inner and outer box making, printing of labels on the match boxes and chemical printing of the sides of match boxes. The packing activities like bundling and filling in boxes of the manufactured matches alone were carried out manually. Thus, the matches were only machine made matches and should have been taxed at the

[1] Sivakasi I, Sivakasi II and Sivakasi IV.

rate of 10 *per cent*. The exemption allowed by the AOs treating them as partly machine made was not in order. The erroneous exemption allowed both on the local sales and inter state sales resulted in short realisation of revenue of Rs. 9.02 crore.

2.2.2.2 Test check of the records in Sivakasi IV assessment circle revealed that two dealers had effected inter state sale of machine made matches under the trade mark 'Chavi'. The AO, while finalising the assessments of the dealers for the years 2003-04 and 2004-05, erroneously allowed exemption on the inter state sales turnover of Rs. 32.56 crore, treating the matches as partly machine made matches instead of levying tax at the rate applicable to sale of machine made matches. The erroneous allowance of exemption resulted in loss of revenue of Rs. 3.67 crore.

The cases were pointed out to the department in November 2007 and to the Government in February 2008; their reply has not been received (November 2008).

2.2.3 According to Section 8(2-A) of the CST Act, inter state sale of goods is exempted from levy of tax, if the same is generally exempted under the local Act. If the goods under the local Act are exempted only in specified circumstances or under specified conditions, inter state sale of such goods will not be eligible for exemption. As per entry 6(viii) of the second schedule to the TNGST Act, coconut including copra is taxable at the rate of four *per cent* at the point of last purchase in the State by a dealer for crushing oil. Under entry 17 of Part B of the third schedule to the Act, coconut, other than those falling under the second schedule is exempted. It has been judicially held[2] by the Supreme Court that "coconut" includes watery coconut.

Test check of the records in six[3] assessment circles revealed that the AOs, while finalising the assessments of 11 dealers for the years 2002-03 to 2004-05 between June 2005 and November 2006, had exempted a turnover of Rs. 22.32 crore representing inter state sale of coconuts from levy of tax. This resulted in non-levy of tax of Rs. 1.70 crore.

After the cases were pointed out between October 2006 and September 2007, the AOs contended that the commodity sold was watery coconuts which was generally exempted from levy of tax under the local Act and hence the inter state sales was also exempted. The reply is not tenable as watery coconut is coconut and coconut is only conditionally exempted under the local Act. This view has also been affirmed by the Madras High Court which has held[4] that exemption granted to coconut under the local Act is not general but a conditional exemption.

The matter was reported to the Government in November 2007 and January 2008; their reply has not been received (November 2008).

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2 Ganpat Lal Lakhotia Vs. State of Rajasthan – 104 STC P.91 (SC)

3 Dindigul (Rural), Melur, Nilakottai, Sankarankoil, Srirangam and West Veli Street Circle (Madurai).

4 N. Jagannathan & Sons Vs. DCTO Vaniyambadi and other – 7 VST 57 (Madras).

2.3 Short levy of tax on goods sold under brand names by trade mark holders

According to Section 3-J of the TNGST Act, whenever a dealer, who holds the trade mark or the patent thereof, sells goods at any point of sale other than the first point of sale, he shall be deemed to be the first seller in the State and shall be liable to pay tax accordingly. For determining the tax due to be paid by him, the tax levied and collected at the immediate preceding point of sale on the same goods shall be deducted from the tax payable by him at the point of sale.

The Commissioner of Commercial Taxes (CCT) clarified in June 2002 that where a dealer purchases goods from any local registered dealer and effects a resale of such goods with a brand name not registered under the Trade and Merchandise Marks Act (T&MM Act), he is not liable to pay tax under Section 3-J of the Act, but is liable to pay resale tax at one *per cent* under Section 3-H of the Act. The clarification of the CCT is not in consonance with Section 3-J of the Act, which does not require registration of brand name under the T&MM Act. The Kerala High Court, while dealing with a similar provision in the Kerala General Sales Tax Act has held[5] that the expression "trade mark holder" and "brand name holder" cannot be interpreted as intended to cover only registered trade mark holders or registered brand name holders.

Test check of the records in three assessment circles revealed that four dealers had sold goods under brand names. The AOs while finalising the assessments for the years 2004-05 and 2005-06 between April 2006 and December 2006 of these four dealers levied resale tax at one *per cent*, instead of levying tax at the schedule rates applicable to the goods as provided under Section 3-J of the TNGST Act. This resulted in short levy of tax of Rs. 6.63 crore (inclusive of surcharge and additional sales tax) as mentioned below:

(Rupees in crore)

Sl. No.	Assessment Circle (No. of dealers)	Assess-ment year/ (Month & year of assess-ment)	Commo-dity	Turn-over	Rate of tax (*per cent*)	Amount of tax due including surcharge and addi-tional sales tax	Tax already levied and collected (inclu-ding resale tax)	Amount of short levy
1.	T.Nagar (North) (1)	2004-05 (August 2006)	'Eureka Forbes' Vacuum cleaner/ water purifier	40.34	12	6.15	2.81	3.34

5 Bechu & Company Vs. Assistant Commissioner (Assessment) – 132 STC P.68 (Kerala).

2.	Koyambedu (1)	2005-06 (September 2006)	'Aswini' Hair oil	11.38	20	2.50	1.37	1.13
3.	Coonoor (2)	2004-05 (April 2006)	'Amar' Tea	22.39	8	2.11	1.42	0.69
		2005-06 (December 2006)	'Ooty' Tea	29.96	8	2.94	1.47	1.47
Total				**104.07**		**13.70**	**7.07**	**6.63**

The matter was reported to the Government between November 2007 and March 2008; their reply has not been received (November 2008).

2.4 Application of incorrect rate of tax

2.4.1 Under the provisions of the TNGST Act, tax is leviable on the sale or purchase of goods at the rates and at the points mentioned in the relevant schedules to the Act. With effect from 1 July 2002, surcharge is leviable at the rate of five *per cent* on tax.

Test check of the records in eight[6] assessment circles revealed that the AOs, while finalising the assessments of nine dealers for the years 2003-04 to 2005-06 between April 2005 and January 2007, applied incorrect rates of tax on a turnover of Rs. 4.17 crore. This resulted in short levy of tax of Rs. 27.20 lakh.

After the cases were pointed out between May 2007 and August 2008, the AOs revised the assessments in three cases and raised an additional demand of Rs. 4.52 lakh; of which Rs. 4.02 lakh has been collected and the balance amount is stated to have been covered by stay obtained from the Madras High Court. In one case, the AO contended that paper cones were utilised as packing materials and as such the sales were correctly taxed at four *per cent.* The reply is not tenable as only those packing materials mentioned in entry 44 of Part B of the first schedule are chargeable to tax at four *per cent*. The paper cone does not fall within the purview of this entry and is to be charged to tax at the rate of 12 *per cent* as unspecified goods. Reply in respect of the remaining cases has not been received (November 2008).

The matter was reported to the Government between October 2007 and February 2008. The Government accepted the audit observation in one case in July 2008. Reply in respect of the other cases has not been received (November 2008).

2.4.2 Under Section 8(2)(b) of the Central Sales Tax (CST) Act, 1956, inter state sale of goods other than the declared goods, not covered by valid declarations in form 'C' is assessable to tax at the rate of 10 *per cent* or at the rate applicable to sale of such goods inside the State, whichever is higher.

6 Alandur, Ashoknagar, Chintadripet, Guindy, Hosur (North), Kovilpatti-II, Nandanam and T.Nagar (North).

Inter state sale of the declared goods not covered by 'C' form declarations is assessable to tax at double the local rate. The elements of surcharge and additional sales tax, wherever applicable, are also to be taken into consideration to arrive the local rate of tax.

By a notification issued in February 1976 under Section 8(5) of the CST Act, the rate of tax on sale of scientific instruments and appliances to the educational institutions and hospitals was reduced to five *per cent*. Consequent to the amendment of the CST Act with effect from 11 May 2002, prescribing production of the declaration form mandatory for availing the exemption/concessional rate of tax under the CST Act, the concessional rate of tax would not be applicable on sale of scientific equipments and instruments, unless the sale was covered by declaration forms.

Test check of the records in nine assessment circles revealed that the AOs, while finalising the assessments of 13 dealers for the years 2000-01, 2002-03 to 2005-06 between October 2004 and February 2007, applied incorrect rates of tax on the inter state sale of goods valued at Rs. 23.08 crore. This resulted in short levy of tax of Rs. 1.02 crore as mentioned below:

(Rupees in lakh)

<table>
<tr><th rowspan="2">Sl. No.</th><th rowspan="2">Assessment circle (No. of dealers)</th><th rowspan="2">Year of transaction (Month/ Year of assessment)</th><th rowspan="2">Commodity</th><th rowspan="2">Tax-able turn-over</th><th colspan="2">Rate of tax (per cent)</th><th rowspan="2">Amount short levied</th></tr>
<tr><th>Appli-cable</th><th>App-lied</th></tr>
<tr><td>1.</td><td>Chintadripet
Nandanam
Saligramam
Tiruvanmiyur
(6)</td><td>2002-03
2004-05
(between April 2006 and September 2006)</td><td>Sale of scientific instruments/ equipments, machinery to educational institutions and hospitals</td><td>992.96</td><td>10.5

12.6</td><td>5

5</td><td>60.63</td></tr>
<tr><td colspan="8">After the cases were pointed out between April 2007 and December 2007, the AO, Chintadripet assessment circle revised the assessment in February 2008 and raised an additional demand of Rs. 1.48 lakh; the collection particulars of which have not been received (November 2008). The AOs in the other cases stated that the concessional rate of tax was allowed on production of certificates required under the notification dated 11 February 1976 granting such concessional rate. The reply is not tenable as consequent to the amendment of the CST Act with effect from 11 May 2002, concessional rate of tax is admissible only on production of the prescribed 'C' form declarations, which were not produced.</td></tr>
<tr><td>2.</td><td>Velandi-palayam
(1)</td><td>2005-06
(February 2007)</td><td>Lubricating oil and greases</td><td>144.32</td><td>16.8</td><td>4</td><td>18.47</td></tr>
<tr><td colspan="8">The concessional rate of four per cent allowed was not in order as the form 'C" declarations were found to be invalid.
After the case was pointed out in September 2007, the AO revised the assessment and collected the additional demand of Rs. 18.47 lakh.</td></tr>
</table>

14 MAY 09

<table>
<tr><td>3.</td><td>Sivakasi-I
(1)</td><td>2003-04
(July 2005)
2004-05
(May 2006)</td><td>Sale of telephone directory to M/s.Bharat Sanchar Nigam Limited (BSNL)</td><td>182.18</td><td>10.5</td><td>4</td><td>11.84</td></tr>
<tr><td colspan="8">AS BSNL is not a Government department, the adoption of the rate of four per cent on the sale of telephone directory to BSNL was not in order.
After the case was pointed out in November 2006 and July 2007, the AO revised the assessment for the year 2003-04 in June 2007 and raised an additional demand of Rs. 8.15 lakh. Report regarding collection of the additional demand for 2003-04 and action taken in respect of the assessment year 2004-05 has not been received (November 2008).</td></tr>
<tr><td>4.</td><td>Nilakottai
Mylapore
(3)</td><td>2000-01
2002-03
2003-04
(between October 2004 and January 2006)</td><td>Printing and writing paper

Medical appliances</td><td>415.33

23.94</td><td>11.5

10</td><td>10.5

4</td><td>5.59</td></tr>
<tr><td colspan="8">The element of additional sales tax was omitted to be taken into account while arriving the tax applicable on inter state sale of printing and writing paper not covered by 'C' form declarations. Similarly, inter state sale of medical appliances, though not covered by 'C' form declarations was erroneously assessed to tax at the rate of four per cent.
After the cases were pointed out in May/June 2007, the AOs revised the assessments and collected the additional demand of Rs. 5.59 lakh.</td></tr>
<tr><td>5.</td><td>Tiruvanmiyur

Hosur (North)
(2)</td><td>2002-03
(August 2006)

2004-05
(December 2006)</td><td>Electronic load cell

Furniture</td><td>18.10
144.05

386.84</td><td>12
12.6

12.6</td><td>10
10.5

12</td><td>5.71</td></tr>
<tr><td colspan="8">Electronic load cells are assessable to tax under the specific entry relating to parts of weighing machines. The assessment made treating the same as electronic goods was not in order. Similarly, the element of surcharge was not taken into account while arriving the tax on inter state sale of furniture not covered by declaration forms.
After the cases were pointed out in August 2007 and January 2008, the AO of the Tiruvanmiyur assessment circle replied that load cells were electronic goods and the assessment made was in order. The reply is not tenable as electronic load cells are taxable under the specific entry relating to parts of weighing machines. Reply in respect of the other case has not been received (November 2008).</td></tr>
<tr><td colspan="4">Total</td><td>2,307.72</td><td></td><td></td><td>102.24</td></tr>
</table>

The matter was reported to the Government between August 2007 and March 2008. The Government accepted the audit observation in one case pertaining to Mylapore assessment circle. Reply in respect of the other cases has not been received (November 2008).

2.5 Escapement of taxable turnover

2.5.1 According to Section 3-A of the TNGST Act, every person engaged in the business of transfer of right to use any goods for any purpose (whether or not for a specified period) for cash or deferred payment or other valuable consideration, shall pay a tax on the taxable turnover relating to the transfer of right to use any goods at the rates specified in the schedules to the Act. Under the Act, patents, trademarks and goods of incorporeal or intangible nature are taxable at the rate of four *per cent* at the point of first sale in the State. Producers of teleserials and telefilms lease out their serials/films in a medium called "Beta tapes" to the television companies for telecasting and receive valuable consideration. The valuable consideration is in the form of a share in the advertisement revenue from the television channels.

Scrutiny of the annual accounts filed by eight producers of teleserials and telefilms with the Income Tax Department, Chennai revealed that they had earned valuable consideration in the form of share in the advertisement revenue from various television satellite channels to the extent of Rs. 165.34 crore during the years 2000-01 to 2003-04. Cross verification of the records in the concerned assessment circles[7] under whose jurisdiction the business of the producers was situated, however, revealed that the producers had not registered themselves under the TNGST Act as assessees.

Thus, there was escapement of taxable turnover and corresponding non-levy of tax of Rs. 19.94 crore including penalty of Rs. 11.96 crore.

After this was brought to the notice of the department between June 2007 and March 2008, the AO, T.Nagar (East) assessment circle replied that the notification issued in March 2000 granting exemption in respect of the tax payable on the right to use feature films would apply to teleserials as well. The reply is not tenable as the exemption stated in the said notification is only for exposed cinematographic films and does not apply to teleserials and telefilms transferred in "Beta tapes". Reply from the other AOs has not been received (November 2008).

The matter was reported to the Government in March 2008; their reply has not been received (November 2008).

2.5.2 Standing Orders 225 and 226 of the Tamil Nadu Commercial Taxes (TNCT) Manual envisage interaction with other departments such as Income Tax, Central Excise, etc. by way of periodical exchange of information to enable detection of new cases and suppression of facts.

Scrutiny of the records in the office of the Additional Director General, Directorate General of Central Excise Intelligence, Chennai revealed that the central excise wing had detected suppression of value of goods amounting to Rs. 1.72 crore during the years 1999-2000 and 2000-01 and the dealer accepting his liability had paid the excise duty of Rs. 31.55 lakh. Cross verification of records of the dealer with the assessment records in Ambattur

[7] Alwarpet, Luz, Nungambakkam, Saligramam, Royapettah-I & T.Nagar (East)

assessment circle revealed that the AO, while finalising the assessments of the dealer for the years 1999-2000 and 2000-01 in December 2005 and February 2006, had omitted to bring to assessment the suppressed sales turnover of Rs. 2.03 crore involving tax and penalty of Rs. 52.40 lakh. Thus, the failure to interact with the Central Excise Department as envisaged in the TNCT Manual resulted in escapement of taxable turnover.

After the case was pointed out in December 2006, the AO issued notice to the assessee in June 2007. Further report has not been received (November 2008).

The matter was reported to the Government in February 2008; their reply has not been received (November 2008).

2.6 Erroneous treatment of sale as works contract

According to Section 3(2) of the TNGST Act, tax is leviable on the sale of goods at the rates mentioned in the relevant schedules to the Act. According to Section 7 C of the Act, in respect of works contract, a dealer has the option of paying tax at four *per cent* of the total contract value of the works executed.

The Supreme Court has held[8] that if a thing to be delivered has any individual existence before the delivery as the sole property of the party who is to deliver it, then it is a sale. If the major component of the end product is the material consumed in producing the chattel to be delivered and skill and labour are employed for converting the main components into the end products but the skill and labour are only incidentally used, then the delivery of the end product by the seller to the buyer will constitute a sale.

Test check of the records in 11 assessment circles revealed that the AOs, while finalising the assessments of 13 dealers for the years 2001-02 to 2005-06, between December 2003 and March 2007, incorrectly treated sales as contracts for work and levied tax as applicable for works contract. This resulted in short levy of tax of Rs. 4.51 crore (inclusive of surcharge) as mentioned below:

(Rupees in lakh)

Sl. No.	Assessment circle (No.of dealers)	Year of transaction (Month/ Year of assessment)	Nature of transaction	Taxable turn over	Rate of tax (per cent)		Amount short levied
					Applicable	Applied	
1.	Annasalai-III (1)	2002-03 (December 2003) 2003-04 (February 2005)	Erection and commissioning of telecom shelters.	98.54	12	4	8.06
Remarks: The assessee had received the telecom shelters in completely knocked down condition from their factory at Bangalore and assembled the same at the customer's premises. The goods had individual existence as the sole property of the assessee and material was the major component of the end product. Hence the transaction is one of sale of telecom shelters and not works contract. This was pointed out to the department in July 2007; their reply has not been received (November 2008).							

8 Hindustan Shipyard Ltd. Vs. State of Andhra Pradesh – 119 STC P.533 (SC)
State of Andhra Pradesh Vs. Kone Elevators – 140 STC P.22 (SC)

2.	Tambaram-I Velachery Tiruvanmiyur (3)	2004-05 (June 2006) 2005-06 (June 2006)	Supply and installation of diesel generator sets.	369.76	16	4	46.59
Remarks: After this was pointed out, the AO, Tambaram-I assessment circle issued notice to the dealer and stated that the assessment would be revised, if necessary. Further report has not been received. The AOs in respect of the other two cases replied that the assessee had opted to pay tax under Section 7C of the Act and the contracts involved indivisible works, which were carried out at the site of the customers. The reply is not tenable as the major portion of the contracts involved supply of generator sets and installation was only incidental. The transactions should, therefore, have been treated as sale and taxed accordingly.							
3.	Harbour-I (1)	2001-02 to 2004-05 (between October 2003 and October 2006)	Design, manufacture, supply, erection, commissioning and handing over of wharf cranes.	1,287.10	12	4	108.12
Remarks: The contract consists of two parts, one for design, manufacture and delivery of the cranes in fully erected/knocked down condition and the other for erection, testing and commissioning of the cranes. Thus, erection was only incidental to the supply of cranes. The transactions should, therefore, have been treated as sale and taxed accordingly. This was pointed out to the department in September 2007; their reply has not been received (November 2008).							
4.	Rockfort Tiruvanmiyur (2)	2004-05 (October 2006) 2005-06 (March 2007)	Supply and erection of communication towers.	560.86	12	4	47.11
Remarks: The assessee had utilised his own materials in the fabrication of the transmission towers, which had existed as the property of the assessee before transfer to the customers. As such it should have been treated as sale and taxed accordingly. This was pointed out to the department in October/December 2007; their reply has not been received (November 2008).							
5.	Mandaveli Ashok Nagar (3)	2003-04 to 2005-06 (between June 2006 & January 2007)	Supply, installation and commissioning of air conditioning system.	626.81	20	4	105.30
Remarks: The AOs stated that the dealers were engaged in the work of supply, installation, testing and commissioning of air conditioning systems of various capacity and the labour charges include ducting, refrigerant piping, electrical cabling etc. and therefore, the assessments made at four *per cent* treating the same as works contract was in order. The reply is not tenable as the contracts involved supply of air conditioning units, which had individual existence as the property of the assessee before incorporation in such works and the installation was only incidental to the supply of air conditioning units.							
6.	Alwarpet Alandur (2)	2004-05 2005-06 (February 2007)	Fabrication, supply and installation of modular kitchen.	522.02	12	4	43.85

Remarks: The major portion of the contract involved supply of materials and the amount of labour involved was only minimal and incidental to such supply. The transactions should have been treated as sale and taxed accordingly. This was pointed out to the department in August/October 2007; their reply has not been received (November 2008).							
7.	T.Nagar (East) (1)	2004-05 (June 2006) 2005-06 (March 2007)	Supply, laying and fixing of carpets.	549.46	20	4	92.31
Remarks: The AO stated that the assessment made at four *per cent* as works contract was in order as the contract was not for outright sale of carpets but involved supply, fixing and laying of the carpets and pasting of carpets in the room spaces. The carpets had to be cut into size according to the specification and the same had to be fixed in the floor of customers as required by them and then only the transfer of property took place. The reply is not tenable as major portion of the contract involved supply of materials and the amount of labour involved was only minimal and incidental. The goods, viz., carpets had individual existence as the property of the assessee before incorporation in the works.							
		Total		**4,014.55**			**451.34**

The matter was reported to the Government in February 2008; their reply has not been received (November 2008).

2.7 Non/short levy of additional sales tax

As per the provisions of the Tamil Nadu Additional Sales Tax Act, 1970, every dealer whose taxable turnover for a year exceeds Rs. 10 crore is liable to pay additional sales tax at the prescribed rate on such turnover. The levy is subject to the condition that the aggregate of sales tax and additional sales tax on the declared goods should not exceed four *per cent*. It has been held[9] by the Supreme Court that amalgamation of companies takes effect on the date of transfer specified in the scheme and not on the date of Court's order.

Test check of the records in five[10] assessment circles revealed that the AOs while finalising the assessments of seven dealers for the years 2001-02 to 2005-06 between January 2003 and November 2006 had either short levied or omitted to levy additional sales tax of Rs. 1.03 crore.

After the cases were pointed out between December 2003 and November 2007, the department revised the assessments in five cases between April 2007 and June 2008 and raised an additional demand of Rs. 51.63 lakh; of which Rs. 30.30 lakh has been collected. In one case, the AO contended that the clubbing of turnovers was not warranted as the Court's approval for merger came only in August 2001 and the assessment made treating the companies as separate entities was in order. The reply is not tenable in the light of the Supreme Court's decision that the scheme of merger takes effect from the date of transfer mentioned in the scheme and in the instant case, such date has been

9 Marshall Sons and Co. (India) Ltd. Vs. Income Tax Officer ITR Vol.223 P.809

10 Amaindakarai, Annasalai-II, Egmore-II, Fast Track Assessment Circle-II (Chennai), and Tiruvottiyur.

mentioned as 1 April 2000. Reply in respect of the remaining case has not been received (November 2008).

The matter was reported to the Government between July 2007 and February 2008. The Government accepted the audit observations in four cases in August/ September 2008. Reply in respect of the other cases has not been received (November 2008).

2.8 Incorrect computation of taxable turnover

Under the TNGST Act, the taxable turnover of a dealer is determined on the basis of sales turnover shown in the returns after allowing the permissible deductions. The sales tax is leviable at the prescribed rates on the taxable turnover. With effect from 1 July 2002, surcharge at five *per cent* is leviable on the tax. The Tamil Nadu Taxation Special Tribunal (TNTST) has held[11] that the freight charges though shown separately in the invoices are liable to tax, as in the case of supply of liquid gas in safe containers, the consideration of price payable by the buyers includes the value of gas as well as the freight charges incurred for despatch of the gas cylinders and to get back the empty cylinders.

Test check of the records in seven[12] assessment circles revealed that while finalising the assessments of seven dealers for the years 2000-01, 2001-02, 2002-03, 2004-05 and 2005-06 between January 2004 and March 2007, there was incorrect computation of taxable turnover of Rs. 1.49 crore. This was on account of omission to consider levy of tax on turnover relating to sale of assets, incorrect treatment of first sales as second sales, non-levy of tax on freight charges, etc. This resulted in short levy of tax and surcharge amounting to Rs. 11.55 lakh.

After the cases were pointed out between March 2006 and November 2007, the department revised the assessments in six cases between April 2007 and January 2008 and raised an additional demand of Rs. 9.03 lakh; of which Rs. 3.42 lakh has been collected. Report on recovery of the balance amount has not been received (November 2008). The AO in a case pertaining to Adyar-II assessment circle did not accept the audit observation stating that the dealer had charged transport charges separately in the invoices and hence not liable to tax. The reply is not tenable as in the case of supply of gases in cylinders, the freight charges even if paid separately, form a part of taxable turnover and are liable to be taxed.

The matter was reported to the Government between August 2007 and February 2008. Government accepted the audit observations in two cases. Reply in respect of the remaining cases has not been received (November 2008).

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11 Ram Oxygen (P) Ltd Vs. Joint Commissioner (CT) 134 STC P.240 (TNTST)
Indian Oxygen Ltd. Vs. Commercial Tax Officer, Central Assessment Circle-I Chennai – 132 STC P.337 (TNTST)

12 Adyar-II, Ambattur, Erode (Rural), Gandhipuram, Palayamkottai, Sriperumbudur and Tenkasi.

2.9 Incorrect grant of concessional rate of tax

According to Section 3(2) of the TNGST Act, in the case of goods mentioned in the first schedule, the tax shall be payable by a dealer at the rate and at the point specified therein. Section 3(5) of the TNGST Act, however, provides for levy of tax at the concessional rate of three *per cent* on sale of goods mentioned in the eighth schedule against declaration forms. Imported machinery is taxable at the rate of 20 *per cent* at the point of first sale in the State under entry 9 of the eleventh schedule to the Act. Sewing machines are taxable at the rate of 10 *per cent* at the point of first sale in the State. The concessional rate of tax is not applicable to the sale of sewing machines and imported machinery as these are not specified in the eighth schedule to the Act.

Test check of the records in four[13] assessment circles revealed that the AOs, while finalising the assessments of five dealers for the years 2004-05 and 2005-06 between November 2006 and March 2007, allowed concessional rate of tax on the sale of imported machinery and industrial sewing machines for Rs. 2.08 crore. This resulted in short levy of tax of Rs. 35.23 lakh.

After the cases were pointed out between July 2007 and February 2008, the AOs in the cases pertaining to Adyar II and Guindy assessment circles stated that the concessional rate allowed on sale of imported machinery was in order as "machineries of all kinds" are mentioned in the eighth schedule to the Act. The reply is not tenable as imported machinery, falling under the eleventh schedule is assessable to tax at the rate of 20 *per cent* instead of three *per cent*. The AO, Alandur assessment circle in the case pertaining to sewing machines stated that declaration forms were furnished by the purchaser and as such the concessional rate allowed was in order. The reply is not acceptable as sewing machines are not eligible for the concessional rate of tax. Reply in respect of the remaining case has not been received (November 2008).

The matter was reported to the Government between November 2007 and February 2008; their reply has not been received (November 2008).

2.10 Non/short levy of tax

2.10.1 Under Section 3-B of the TNGST Act, in respect of works contract, the value of goods involved in the execution of such works contract is assessable to tax at the rates applicable to the respective goods.

2.10.1.1 The Supreme Court has held[14] that the measure for the levy of tax would be the value of goods at the time of their incorporation in the works and the profits which are relatable to the supply of the materials shall be included.

Test check of the records in T.Nagar (North) assessment circle revealed that two contractor dealers had earned a profit of 36.6 *per cent* and 42.71 *per cent* during 2005-06. The AO while finalising the assessments of the two civil

[13] Adyar-II, Alandur, Guindy and Velandipalayam

[14] Gannon Dunkerley & Co. Vs. State of Rajasthan – (1993) 88 STC P.204 (SC)

works contractors for the year 2005-06 in March 2007, however, determined the deemed sale value of materials utilised in the execution of such works contract by addition of gross profit of 10 *per cent* to the cost of the goods. The mistake resulted in incorrect computation of taxable turnover and corresponding short levy of tax of Rs. 5.73 lakh.

After the cases were pointed out in November 2007, the AO in one case revised the assessment in December 2007 and raised an additional demand of Rs. 1.25 lakh. Report on recovery of the demanded amount and action taken in the other case has not been received (November 2008).

The matter was reported to the Government in February 2008; their reply has not been received (November 2008).

2.10.1.2 Section 3-G of the TNGST Act provides an option to a dealer who carries on the business of printing, to pay tax at the rate of three *per cent* on the total turnover, instead of paying tax in accordance with Section 3(2) or Section 3-B of the Act. The option once exercised under the Act is final for the year.

Test check of the records in Royapettah-II and Sivakasi-I assessment circles revealed that two dealers (printers) had exercised option to pay tax under Section 3-G for the years 2002-03, 2003-04 and 2005-06. The AOs, while finalising the assessments (March 2007) of the dealers had allowed exemption for Rs. 2.43 crore as labour charges. As the dealers had exercised option to pay tax on the total turnover under Section 3-G, the exemption allowed towards labour charges was not in order. The incorrect computation of turnover for levy of tax under Section 3-G resulted in short levy of tax of Rs. 7.66 lakh (inclusive of surcharge).

After the cases were pointed out in May 2007 and July 2007, the AO, Sivakasi-I assessment circle stated in September 2007 that revision notice was issued and order would be passed on expiry of the notice period. Further report regarding revision of the assessment has not been received (November 2008). In the case pertaining to Royapettah-II assessment circle, the Assistant Commissioner contended that since the materials other than printing ink were supplied by the customers, it was a labour contract and the exemption allowed was in order. The reply is not tenable as the dealer had utilised his own printing ink in the execution of the printing work and hence the exemption allowed as labour charges is not in order.

The matter was reported to the Government in February 2008; their reply has not been received (November 2008).

2.10.1.3 The definition of 'sale' under the CST Act was amended with effect from 11 May 2002 to include transfer of property in goods involved in the execution of works contract. Accordingly, goods involved in the execution of inter state works contract is assessable to tax at the rate applicable to the sale of such goods inside the State, if not covered by 'C' form declarations.

Test check of the records in Sivakasi-I assessment circle revealed that a dealer had undertaken inter state printing works contract and had utilised locally purchased printing ink in the execution of such printing works. However, the AO, while finalising the assessments of the dealer for the years 2004-05 and

2005-06 in October 2006 and March 2007 respectively, failed to levy tax on the deemed sale value of printing ink involved in the execution of such works contract. The non-levy of tax on the deemed sale value of printing ink of Rs. 61.60 lakh in respect of the assessment years 2004-05 and 2005-06 worked out to Rs. 6.47 lakh.

After the case was pointed out in June 2007, the AO issued pre-revision notice and stated that revised order would be passed after expiry of notice time. Further report regarding the action taken on the pre-revision notice has not been received (November 2008).

The matter was reported to the Government in February 2008; their reply has not been received (November 2008).

2.10.1.4 It has been judicially held[15] by the Madras High Court that goods purchased from outside the State of Tamil Nadu and utilised in the State of Tamil Nadu in the execution of works contract attract tax as deemed sale.

Test check of the records in Nungambakkam assessment circle revealed that the AO, while finalising the assessment of a dealer for the year 2004-05 in November 2006 had allowed deduction for Rs. 1.81 crore in respect of goods purchased from outside the State and utilised in the execution of works contract, instead of levying tax at the rates applicable to the deemed sale of such goods. The erroneous allowance of deduction resulted in short levy of tax of Rs. 22.76 lakh (inclusive of surcharge).

This was pointed out to the department and the Government in December 2007 and February 2008 respectively; their reply has not been received (November 2008).

2.10.1.5 Test check of the records in Sivakasi I and II assessment circles revealed that two dealers had received Rs. 8.26 crore as conversion charges for production of matches. Audit scrutiny further revealed that the dealers had used their own materials like chemicals, splints, slack wax, etc. in such conversion. The AOs, while finalising the assessments of the dealers for the years 2003-04 and 2004-05 between June 2006 and March 2007, however, omitted to levy tax on the deemed sale value of the materials which were utilised in the execution of the works. This resulted in non-levy of tax of Rs. 26.16 lakh.

After the cases were pointed out in November 2007, the AOs replied that revision of assessment would be considered after recheck of accounts. Further report has not been received (November 2008).

The matter was reported to the Government in March 2008; their reply has not been received (November 2008).

15 JDP Associates Vs. TNTST & Others – 2004-05 (10) TNCTJ P.165 (Mad)

2.11 Non-levy of purchase tax

Under the TNGST Act, every dealer who in the course of his business purchases from a registered dealer or from any other person any goods in the circumstances in which no tax is payable and despatches them to a place outside the State, except as a direct result of sale or purchase in the course of inter state trade or commerce, is liable to pay purchase tax at the prescribed rates.

As per entry 81 of the third schedule to the Act, turmeric for sale by any dealer whose total turnover does not exceed Rs. 300 crore in a year is exempted. The Tamil Nadu Taxation Special Tribunal (TNTST) had observed that the exemption was intended for dealers whose total turnover was below Rs. 300 crore and the goods could not be said to be non-taxable goods and had upheld[16] the levy of purchase tax in respect of stock transfer of goods outside the State which had not suffered tax in the State.

Test check of the records in Nilakottai assessment circle revealed that a dealer whose total turnover was less than Rs. 300 crore had sent turmeric to places outside the State on consignment basis. As the turmeric had not suffered tax earlier in the State, purchase tax was leviable. However, the AO while finalising the assessments of the dealer for the years 2004-05 and 2005-06 in December 2005 and March 2007 respectively omitted to levy tax. This resulted in non-levy of purchase tax of Rs. 23.83 lakh.

After the case was pointed out in July 2007, the AO stated in September 2007 that as the commodity was exempted from the levy of tax upto Rs. 300 crore and the purchases were effected from registered dealers, purchase tax was not leviable. The reply is not tenable as the exemption is admissible only if the commodities are sold by a dealer. In this case, the goods have not been sold but have been sent outside the State on consignment basis and purchase tax is leviable. This view has also been upheld by the decision of the TNTST mentioned above.

The matter was reported to the Government in January 2008; their reply has not been received (November 2008).

2.12 Non-levy of resale tax

Section 3-H of the TNGST Act provides for the levy of resale tax at one *per cent* on the turnover of resale of goods specified in the first schedule in respect of every dealer liable to pay tax under Section 3(2) and whose total turnover is not less than Rs. 10 lakh for the year.

Test check of the records in Annasalai-II and Villupuram-I assessment circles revealed that the AOs while finalising/revising the assessments of two dealers

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[16] Ruchi Soya Industries Ltd. Vs. CTO Harbour III and another – 139 STC P.294

for the years 2003-04 and 2004-05 in June 2006 and February 2007, omitted to levy resale tax on the turnover of resale of toner cartridges and ink cartridges and readymade garments for Rs. 10.58 crore. This resulted in non-levy of resale tax of Rs. 10.58 lakh.

After the cases were pointed out in August 2007 and October 2007, the department revised the assessments and raised an additional demand of Rs. 10.58 lakh; of which an amount of Rs. 2.48 lakh has been collected. Report on recovery of the balance amount has not been received (November 2008).

Government to whom the matter was reported in October/November 2007 accepted the audit observation in one case. Reply in respect of the other case has not been received (November 2008).

2.13 Affording of excess credit

According to the Commercial Taxes Manual, assessment registers, also called 'D2' ledgers are to be maintained for each year in the assessment circles to show the tax paid by the assessees. The ledger shows the details of the taxable turnover, tax due thereon, tax paid, etc.

Test check of the records in five[17] assessment circles revealed that six dealers had paid tax of Rs. 1.49 crore for the years 2003-04, 2004-05 and 2005-06. The AOs finalised the assessments for Rs. 1.49 crore between July 2005 and December 2007 but erroneously adopted the tax paid as Rs. 1.70 crore and issued notices to the assessees indicating excess payment of tax. This resulted in affording of excess credit of Rs. 20.65 lakh.

After the cases were pointed out between April 2006 and December 2007, the AOs accepted the audit observation and revised the assessments in five cases by withdrawing the excess credit of Rs. 19.15 lakh erroneously afforded to the assessees. Reply in respect of the remaining case has not been received (November 2008).

The matter was reported to the Government in July 2007 and January 2008. Government accepted the audit observation in two cases. Reply in respect of the remaining cases has not been received (November 2008).

2.14 Non/short levy of interest

According to sub section 2 of Section 13 of the TNGST Act, the tax shall become due without issue of any notice of demand to the dealer on the date of receipt of the return or on the last due date prescribed, whichever is later. According to Section 24(3) of the Act, on any amount remaining unpaid after the due date, the dealer shall pay, in addition to the tax amount due, interest at two *per cent* per month for the entire period of default. With effect from

[17] Egmore-II, Koyambedu, Madurantakam, Nandanam & Tiruchendur

1 September 2004, the rate of interest is one and a half *per cent* per month for the first three months of default and two *per cent* per month for the remaining period of default. The provisions relating to levy of interest for belated payment of tax under the TNGST Act also apply in respect of the tax payable under the Central Sales Tax Act.

Test check of the records in 13 assessment circles[18] revealed that tax of Rs. 4.08 crore relating to the assessment years 1991-92 to 1997-98 and 2002-03 to 2005-06 was paid belatedly by 17 dealers between December 2002 and April 2007. The delays ranged from three days to 81 months and 26 days. The AOs failed to levy interest of Rs. 58.13 lakh for the belated payment of tax.

After the cases were pointed out between March 2007 and February 2008, the AOs levied interest of Rs. 54.43 lakh in 14 cases; of which Rs. 18.31 lakh was collected. Report on realisation of the balance amount and reply in respect of the remaining cases has not been received (November 2008).

The matter was reported to the Government between December 2007 and February 2008. The Government accepted the audit observations in 11 cases in July/August 2008. Reply in respect of the remaining cases has not been received (November 2008).

2.15 Non-levy of penalty

Section 12(3)(b) of the TNGST Act provides for levy of penalty at 150 *per cent* of the difference of the tax assessed and the tax paid, if the tax paid as per the return submitted by the assessee falls short of the tax assessed by more than 75 *per cent*.

Test check of the records in Vadapalani-II assessment circle revealed that the AO while finalising the assessment of a dealer for the year 2004-05 in November 2006 omitted to levy penalty, though the dealer had paid Rs.80,000 only as against the assessed tax of Rs. 6.29 lakh. The amount of penalty leviable worked out to Rs. 8.24 lakh, calculated at 150 *per cent* of the balance tax of Rs. 5.49 lakh.

After the case was pointed out, the Government accepted the audit observation in July 2008 and stated that the concerned AO had revised the assessment and levied penalty of Rs. 8.24 lakh. However, the dealer has preferred an appeal against the order before the Appellate Assistant Commissioner.

[18] Ambattur, Ashok Nagar, Avinashi Road, Koyambedu, Kothawalchavadi, Nagercoil, Royapettah-II, Sankarankoil, Shencottah, Tambaram-I, T.Nagar (North), Tiruvanmiyur and Vellore (North).

CHAPTER III

TAXES ON VEHICLES

3.1 Results of audit

Test check of the records of the departmental offices during the period from April 2007 to March 2008 revealed non/short collection of tax, fees, penalty etc., and other audit observations amounting to Rs. 247.37 crore in 132 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	**Receipts from Motor Vehicles Tax – (A review)**	1	240.00
2.	Non/short collection of tax	93	5.14
3.	Non/short collection of penalty	17	0.62
4.	Other irregularities	21	1.61
	Total	**132**	**247.37**

During the course of the year 2007-08, the department accepted and collected tax, fees, penalty etc., amounting to Rs. 66 lakh in 30 cases, out of which, Rs. 6,000 involved in one case was pointed out during the year and the rest in the earlier years.

A review of **"Receipts from Motor Vehicles Tax"** involving Rs. 240.00 crore is discussed below:

3.2 Receipts from Motor Vehicles Tax

Highlights

- Non-registration of 827 canvassers and 237 travel agents under the Motor Vehicles Act, 1988 resulted in loss of scope to collect revenue of Rs. 4.22 crore besides non-bringing them into the system.

(Paragraph 3.2.7)

- Failure to raise demand for life time tax in respect of 2,300 vehicles resulted in non-realisation of revenue of Rs. 3.18 crore.

(Paragraph 3.2.10)

- Failure to levy appropriate tax in respect of 1.57 lakh permits issued to spare buses of stage carriages, which operated as contract carriages under temporary permits, resulted in loss of revenue of Rs. 233.36 crore.

(Paragraph 3.2.13)

3.2.1 Introduction

The assessment, levy and collection of receipts from motor vehicles is governed by the Motor Vehicles Act, 1988 (MVT Act), as applicable to the State of Tamil Nadu; Central Motor Vehicles Rules, 1989 (CMV Rules); Tamil Nadu Motor Vehicles Taxation Act, 1974 (TNMVT Act) and the rules made thereunder. The major receipts of the Transport Department comprise of tax on motor vehicles and fee for registration of vehicles, issue of driving licence and road permit etc. Under the National Permit Scheme formulated by the Government of India in 1975, the States and Union Territories are authorised to grant permits to owners of public carrier vehicles for carriage of goods throughout the territory of India or in such contiguous states not less than four in number including the home state. The composite fee payable to other states is received by the home state in the form of crossed bank draft payable to the designated authorities of those states and is forwarded to the state concerned.

Audit reviewed the assessment, levy and collection of taxes on motor vehicles in the Transport Department. It revealed a number of system and compliance deficiencies, which are discussed in the succeeding paragraphs.

3.2.2 Organisational set up

The receipts from motor vehicles are administered by the State Transport Commissioner (STC) under the administrative control of the Secretary to Government, Home (Transport) Department. In addition, there are three Joint Transport Commissioners (JTC) at headquarter who deal with framing of

rules, administration and road safety. The state is divided into seven zones. Each zone is headed by a Deputy Transport Commissioner (DTC) except Chennai zone which is headed by a JTC. The State Transport Commissioner also acts as the Secretary, State Transport Authority (a statutory body that co-ordinates and regulates the activities and policies of the regional transport offices (RTO). There are 46 RTOs and 313 inspectors under the control of Zonal Offices. The JTC and DTC are under the control of STC.

3.2.3 Audit objectives

The review was conducted with a view to ascertain the

- adequacy and effectiveness of the MVT Act, CMV Rules, TNMVT Act and Rules made thereunder;
- effectiveness and efficiency of the system/mechanism for proper assessment, levy and collection of taxes, fees etc., in accordance with the Acts and Rules; and
- adequacy and effectiveness of the internal controls.

3.2.4 Scope of Audit

A test check of the records of the Home department (Transport) in the Secretariat, State Transport Commissioner office, three out of the seven Zonal Offices and 20[1] out of the 46 RTOs, covering the period from 2002-03 to 2006-07 was conducted between July 2007 and April 2008. The RTOs were selected on the basis of maximum revenue collection and vehicle population.

3.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department in providing necessary information and records for audit. At the outset an entry conference was held in June 2007 with the Transport Commissioner and other departmental officers. He was apprised of the objectives of the review taken up by audit. The draft review was forwarded to the Government and the department in May 2008 and was discussed in the meeting of the Audit Review Committee held in August 2008. The Government was represented by the Deputy Secretary to the Government, Home (Transport) Department and the department was represented by the Transport Commissioner. The view point of the Government and that of the department have been incorporated in the respective paragraphs of the report.

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1 Chennai (C), Chennai (S), Chennai (W), Chennai (NW), Coimbatore (N), Coimbatore (S), Erode, Kancheepuram, Karur, Madurai (N), Madurai (S), Meenambakkam, Namakkal, Pollachi, Salem, Srirangam, T.V.Malai, Tiruchy, Vellore and Villupuram.

3.2.6 Trend of Revenue

The budget estimates and the actual receipts under the head "Motor Vehicles Tax" for the last six years ending March 2008 are mentioned below:

(Rupees in crore)

Year	Budget estimates	Actuals	Variation Excess (+) Shortfall (-)	% of variation
2002-03	700.50	745.62	(+) 45.12	(+) 6.44
2003-04	878.41	934.29	(+) 55.58	(+) 6.00
2004-05	1,101.11	1,014.75	(-) 86.36	(-) 8.00
2005-06	1,130.50	1,124.93	(-) 5.57	(-) 0.49
2006-07	1,248.28	1,260.88	(+) 12.60	(+) 1.00
2007-08	1,410.22	1,483.21	(+) 72.99	(+) 5.18

The increase of revenue of 25 *per cent* in 2003-04 over 2002-03 was due to revision of the tax for transport vehicles, introduction of the life time tax[2] for four wheelers and introduction of the green tax[3].

System Deficiencies

3.2.7 Non-registration of the canvassers/travel agents

The MVT Act (Section 93) provides that no person shall engage himself as an agent or canvasser in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles or distributing goods carriages unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government. Rule 235(1) read with Rule 279 of the Tamil Nadu Motor Vehicles Rules, provide for collection of fees and security deposit at the rates prescribed from time to time.

3.2.7.1 Test check of the records conducted in the office of the STC revealed that the department had not at any time made any effort to detect the unregistered travel agents or canvassers engaged in sale of tickets and forwarding or distributing goods carriages etc. No survey was conducted to unearth the unregistered agents/canvassers. No data was available with the department regarding the number of persons to whom licence was granted or to be granted. The absence of provisions for conducting market survey in the Tamil Nadu Motor Vehicles Rules, coupled with the failure of the department to institute control measures for registration of the travel agents and canvassers resulted in loss of revenue to the State which cannot be quantified in the absence of data. Audit could detect some cases of the unregistered

2 Life time tax means tax paid in lump sum in advance for life time of the vehicle.

3 Green tax is an additional tax levied on the motor vehicle for the purpose of implementation of measures to control air pollution.

travel agents and canvassers by cross verification of records as mentioned below:

3.2.7.2 As per the MVT Act read with Tamil Nadu Motor Vehicles Rules, the licence fee for grant of licence to the travel agents and canvassers of goods was Rs. 45 and Rs. 450 and the security deposit was Rs. 5,000 and Rs. 50,000 respectively.

As per the information obtained from the Central Excise Department at Madurai, 73 canvassers were paying service tax but none of them was registered with the Transport Department at Madurai. In addition to the above, a perusal of the telephone directory published by BSNL in the jurisdiction of 15 regional transport offices[4](RTOs) revealed that 754 canvassers/agents were engaged in the business of forwarding and delivering of goods, but none of them was registered. Further in 6 RTOs[5], 237 travel agents had not registered themselves, as required under the Act. No survey was conducted by the regional transport offices to identify such canvassers/travel agents. Failure to identify and register these canvassers and agents by the department resulted in loss of scope to collect fee of Rs. 3.83 lakh and security deposit of Rs. 4.18 crore, besides non-bringing them into the system.

3.2.8 Internal Audit

In the Transport Department, the internal audit wing has been functioning since 1970. It is headed and monitored by a Chief Accounts Officer under the overall control of the Transport Commissioner. However, there was no internal audit manual in the department codifying the practices and procedures relating to conduct of internal audit. No control register to watch the issue of inspection reports and the observations raised and settled was maintained by the department.

The total number of inspection reports and audit observations pending for disposal was not available with the internal audit wing. As per the information obtained from four zones, 838 audit observations involving a money value of Rs. 4.50 crore were outstanding with the department as on 31 March 2007. The information in respect of the remaining zones was not available. Thus, in the absence of the vital information, Audit could not ascertain the efficacy of the internal audit wing.

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4 Chennai (C), Chennai (NW), Chennai (S), Chennai (W), Coimbatore (N), Coimbatore (S), Erode, Karur, Meenambakkam, Pollachi, Salem, Tiruvannamalai, Trichy, Vellore and Villupuram

5 Chennai (NW), Chennai (W), Meenambakkam, Pollachi, Salem and Villupuram.

3.2.9 Non-raising of demand of arrears of tax from other state omni buses

The Government by an order dated 30 November 2001 enhanced the rate of tax payable in respect of omni buses from Rs. 2,000 to Rs. 3,000 per seat per quarter. This was challenged by the operators in writ petition 212/2002 etc., before the Madras High Court which dismissed the petitions in November 2005 and held the collection of tax at the enhanced rate as valid. In the meantime, the State Transport Commissioner (STC), in the light of an audit observation, had instructed (April 2005) all the officers to maintain records relating to the collection and dues payable by the home state and other state omni bus operators by obtaining the details from check reports[6] issued by the inspectors. The STC had directed (April 2005) the internal audit wing to ensure proper maintenance of the registers and raising of the demand.

Test check of the records revealed that, in 16 RTOs[7], the registers were not maintained properly to watch the recovery of difference of the tax from other state omni bus operators. As per the check reports of motor vehicle inspectors available in the department, an amount of Rs. 57 lakh was realisable from 733 buses. However, no demand was raised by the department. This fact was not reported by the internal audit wing inspite of the direction of the STC.

After the cases were pointed out between August 2007 and March 2008, the department stated (May 2008) that the concerned offices had been instructed to furnish progress report and final reply would be furnished.

3.2.10 Non-raising of demand of life time tax

The Government in 1998 levied life time tax on non-transport vehicles. This was challenged by the vehicles owners in the Supreme Court which in March 2005 held the levy of life time tax valid. The STC had directed (April 2006) all the registering officers to ensure that details of all such vehicles are kept in separate registers meant for watching the difference of tax. The particulars of the vehicles were required to be taken from the "B" register maintained for registration of vehicles and these registers were required to be checked by internal audit wing.

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[6] Check records are issued by Motor Vehicle Inspectors during the checking of vehicle on road.

[7] Chennai (C), Chennai (NW), Chennai (W), Coimbatore (N), Erode, Kanchipuram, Karur, Madurai (N), Madurai (S), Pollachi, Salem (Mettur unit), Srirangam, T.V.Malai, Trichy, Trichy Enforcement wing and Villupuram.

Test check of the records of 17 RTOs[8] revealed that the registers meant for watching the difference of tax was incomplete. 2,300 vehicle owners registered between November 1999 and September 2000 were liable to pay difference of life time tax of Rs. 3.18 crore. But the demand was not raised by the department and this was not pointed out by the internal audit. The failure to follow the instructions resulted in non-realisation of revenue of Rs. 3.18 crore.

After this was pointed out, the department accepted the audit observations and directed the concerned offices to collect the tax and furnish progress report.

3.2.11 Delay in review of the inter-state agreements

Under the provisions of Section 88 of the Motor Vehicles Act, an agreement between the states is a prerequisite for granting of permits for different types of transport vehicles to ply between the states on identified inter state routes. The inter state agreement, *inter-alia,* facilitates determination of the number and the routes of inter state vehicle transport by paying road tax in a single point. The agreements entered by the states provide for review once in two years to accommodate future requirements and also for effecting changes to the original agreement.

Test check of the records in the office of the Commissioner of Transport, Chennai, disclosed that the agreements entered into between Tamil Nadu and the states of Andhra Pradesh, Karnataka, Kerala and the Union Territory of Puducherry were not reviewed once in two years as envisaged in the original agreements. The delay in review of the agreements ranged from 2 years to 22 years. Though there were ministerial level meetings between Tamil Nadu and other states, final decision was not arrived in respect of Puducherry and in respect of Karnataka and Andhra Pradesh, the notification was issued only in November 2007. The impact of non-review of the agreements is mentioned in the following paragraphs.

3.2.11.1 As per the inter state agreement with Puducherry entered in 1985, 468 buses of Tamil Nadu against 117 buses of Puducherry in the ratio of 4:1 were required to be operated between Tamil Nadu and Puducherry. However, only 248 buses were operated by Tamil Nadu. On verification of records, it was seen that 82 buses of Tamil Nadu were plying between Tamil Nadu and Puducherry on payment of double point tax. In spite of the requisitions made by the State Transport Undertakings for operating these buses on single point tax, the same could not be done due to non-review of the original agreement.

8 Chennai (C), Chennai (NW), Chennai (S), Chennai (W), Coimbatore (N), Coimbatore (S), Erode, Kanchipuram, Karur, Madurai (S), Namakkal, Pollachi, Srirangam, T.V.Malai, Trichy, Vellore and Villupuram.

3.2.11.2 As per the existing agreement entered in 1985, seven buses of Tamil Nadu transport undertakings were operated on routes using the permits assigned to the Union Territory of Puducherry by paying tax to that Government. In the absence of the review of the agreement even after a lapse of 22 years, the buses (seven) continued to ply under Puducherry permits resulting in loss of revenue amounting to Rs. 1.20 crore during 1989-90 to 2006-07 including Rs. 38 lakh for the last five years.

3.2.11.3 The third draft supplementary agreement was entered into between the states of Tamil Nadu and Andhra Pradesh in February 2005 for operation of 115 additional buses in specified routes by Tamil Nadu on single point tax basis using temporary permits, till finalisation of the supplementary agreement. The draft agreement was notified by the Government of Andhra Pradesh in October 2005. However, it was not notified by Tamil Nadu.

After this was pointed out in audit, the Government issued notification in November 2007. The delay in issue of notification has resulted in foregoing of revenue of Rs. 1.90 crore[9] for the period from October 2005 to March 2007.

Compliance Deficiencies

3.2.12 Non-collection of composite tax

The Government of Tamil Nadu issued a notification in December 1999 for collecting composite tax at a higher rate in respect of goods carriages registered in the other states and allowed to ply in Tamil Nadu, if any other state levied composite tax at a higher rate for goods carriages registered in Tamil Nadu. The state of Kerala had enhanced the composite tax from Rs. 3,000 to Rs. 5,000 from 17 July 2006, payable by the goods carriages registered outside the state and permitted to ply in Kerala. Accordingly, the Government of Tamil Nadu enhanced the composite tax in respect of vehicles registered in Kerala and authorised to ply in Tamil Nadu.

Test check of the records in the office of the STC revealed that 2,135 National Permit holders registered in Kerala had applied (March 2006) for permits from the State Transport Authority, Tamil Nadu to ply in Tamil Nadu for the year 2006-07. Permits were issued by collecting tax at Rs. 3,000. As the State of Kerala had enhanced the rate of composite tax in July 2006 for the vehicles of Tamil Nadu permitted to ply in Kerala, the tax should have been collected at the enhanced rate of Rs. 5,000 as per the said notification, which was not done. This resulted in non-realisation of tax of Rs. 43 lakh.

After this was pointed out in June 2007, the STC stated that an amount of Rs. 4 lakh was collected in respect of 180 vehicles and the Transport Commissioner of Kerala was requested to realise the balance amount.

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9 At Rs. 500 per seat per quarter for 115 buses of 55 seating capacity.

3.2.13 Non-levy of additional tax on reserve stage carriages

According to section 11 of the Tamil Nadu Motor Vehicles Taxation (TNMVT) Act, 1974, when any motor vehicle in respect of which tax has been paid is altered or proposed to be used in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or person who is in possession or control of such vehicle shall pay an additional tax of a sum equal to the difference between the tax already paid and the tax which is payable in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of its being altered.

Test check of the records in 15 RTOs[10], revealed that 1.57 lakh temporary permits were issued between April 2002 to March 2007 to reserve stage carriages[11], allowing them to operate as "contract carriages" on tour from one point to another, without collecting the tax as applicable to the contract carriages for the period of permit. The vehicle owners were liable to pay tax of Rs. 258.55 crore against which Rs. 25.19 crore were collected. This resulted in short recovery of Government revenue of Rs. 233.36 crore as mentioned below:

(Rupees in crore)

Year	Number of permits issued	Tax payable	Tax paid	Balance
2002-03	12,602	20.79	2.09	18.70
2003-04	25,030	41.30	4.01	37.29
2004-05	39,432	65.00	6.32	58.68
2005-06	40,349	66.57	6.47	60.10
2006-07	39,331	64.89	6.30	58.59
Total	**1,56,744**	**258.55**	**25.19**	**233.36**

After this was pointed out, the STC stated (May 2008) that necessary proposals were submitted to the Government in March 2008 for levy of tax on reserve stage carriages operating on special temporary permits under the enabling provisions of the TNMVT Act. The reply is not tenable as additional tax could be levied under the enabling provisions of the TNMVT Act, without referring to the Government.

10 Coimbatore (N), Coimbatore (S), Erode, Kancheepuram, Karur, Madurai (N), Madurai (S), Namakkal, Pollachi, Salem, Srirangam, Tiruvannamalai, Trichy, Vellore and Villupuram.

11 Reserve stage carriages are the buses deployed in the event of break down of the stage carriages buses. On the other hand, contract carriages are the one used for special purposes on contract.

3.2.14 Non-collection of fee for transfer of permits

Under Section 82(1) of the Motor Vehicles Act, 1988, permits of transport vehicles may be transferred from one person to another with the permission of the State Transport Authority which granted the permit on payment of Rs. 2,400 per permit.

Test check of the records in the office of the STC revealed that as per the Government order dated 16 February 2004, 17 state transport undertakings incorporated under the Companies Act were amalgamated into seven transport undertakings in a phased manner between 2001 and 2004 by transfer of the assets and liabilities including the permits of 8,414 buses of the erstwhile transport undertakings. However, the prescribed fees for transfer of the permits, amounting to Rs. 2.02 crore was not collected.

After this was pointed out in August 2007, the STC accepted the audit observations and stated (May 2008) that a proposal was submitted to the Government in May 2008 for collection of the fees for transfer of permit.

3.2.15 Short levy of tax

Rule 306 of the Tamil Nadu Motor Vehicles Rules provides for seating of not less than 80 cms and not more than 90 cms of length for each seat with pushback facility in deluxe buses. As per this parameter, buses having wheel base of 222 inches would be able to accommodate a minimum of 35 + 1 seats. This was applicable to both stage carriages and omni buses. The rule was, however, amended in March 2004 wherein only stage carriages were brought under the purview and omni buses were excluded.

Test check of the records in the office of the STC Chennai, revealed that prior to March 2004, vehicle owners of 54 omni buses having wheel base of 222 inches were liable to pay tax for 36 seats each but the tax was incorrectly collected for seats ranging between 26 and 34 for the period from April 2002 to March 2004. This resulted in short realisation of tax of Rs. 26 lakh.

After this matter was pointed out in September 2007, the State Transport Commissioner stated (March 2008) that a proposal to levy tax based on floor space of the buses had been submitted to the Government in May 2007. However, the reply was silent about the permits issued before February 2004 and the action taken to collect the differential tax.

3.2.16 Short levy of life time tax

Tamil Nadu Motor Vehicles Taxation Act provides that life time tax shall be collected in respect of non-transport vehicles (four wheelers) registered between July 1998 and July 2003 at the rates prescribed in the Act. This tax was required to be collected at double the rate applicable to individuals in respect of the vehicles owned by "others", viz., firm, company, etc.

Test check of the records in 9 RTOs[12], revealed that there was short demand of tax of Rs. 75 lakh in respect of 415 vehicles due to adoption of the rate of tax applicable to individuals instead of others and adoption of the incorrect slab of tax.

After this was pointed out, the department accepted (May 2008) the audit observations and stated that the officers had been instructed to furnish progress report on the collection of the tax.

3.2.17 Non-enforcement of provisions for effective control of pollution

Rule 116-A of the Tamil Nadu Motor Vehicles Rules, 1989 read with Rule 116 of the Central Motor Vehicles Rules, 1989 provide for testing of smoke emission levels from the motor vehicles by the Tamil Nadu Pollution Control Board/testing stations authorised by the STC. The certificate issued by the authorised testing centre is valid for a period of six months from the date of issue. This is required to be produced to the regional transport officer at the time of obtaining fitness certificate. As per sub-section 2 of Section 190 of Motor Vehicles Act, if a motor vehicle violates the standards prescribed in relation to air-pollution, the person who drives or causes or allows to be driven shall be punishable for the first offence with a fine of Rs. 1,000 and for any second or subsequent offence with a fine of Rs. 2,000.

Test check of the records in the offices under the Transport Department revealed that the number of vehicle testing stations meant for issuing pollution fitness certificate in Chennai had gone down from 130 in 1997 to 66 in 2006, while the number of vehicles checked had gone down from 4 lakh in 1998 to 1.25 lakh in 2006.

After this was pointed out, the STC stated (March 2008) that the matter was taken up with the insurance companies instructing them to make the pollution certificate mandatory before renewal of insurance, particularly in respect of non-transport vehicles which are under life time tax and which do not require any services from the RTOs after registration.

3.2.18 Conclusion

Audit noticed that in the absence of market survey, the canvassers and agents for goods carrier and travel were not registered. There was inordinate delay in review of the inter state agreements which led to non-utilisation of the routes and buses and consequent foregoing of revenue. Failure to implement the provisions of Acts and Rules and ineffective monitoring of tax collection resulted in loss of revenue to the Government.

12 Chennai (C), Chennai (NW), Chennai (S), Chennai (W), Erode, Madurai (S), Meenambakkam, Trichy and Vellore (Vaniyambadi unit).

3.2.19 Summary of recommendations

The Government may consider to:

- conduct market survey to identify the travel agencies/canvassers engaged in goods transport so as to bring the unregistered service providers into the tax net;
- prescribe a manual codifying the rules and procedures with reference to which the internal audit is required to be conducted. Besides, control registers to watch the issue and disposal of inspection reports and audit observations may be prescribed; and
- evolve a system for regular review of the inter state agreements so that deficiencies, if any, in the agreements can be rectified and the agreements are kept current to safeguard the interest of the state.

CHAPTER IV

STAMP DUTY AND REGISTRATION FEES

4.1 Results of audit

Test check of the records of the departmental offices during the period from April 2007 to March 2008 revealed undervaluation, misclassification and other observations amounting to Rs. 45.20 crore in 531 cases which broadly fall under the following categories:

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
1.	**Computerisation of the Registration Department – (A review)**	1	---
2.	Undervaluation of properties	57	9.45
3.	Misclassification of documents	78	7.29
4.	Other irregularities	395	28.46
	Total	**531**	**45.20**

During the course of the year 2007-08, the department accepted and recovered underassessment etc., amounting to Rs. 3.65 crore in 285 cases, of which, Rs. 1.46 crore involved in 95 cases were pointed out during 2007-08 and the rest in the earlier years.

A review of **"Computerisation of the Registration Department"** and few illustrative cases involving Rs. 42.63 crore are discussed in the following paragraphs:

4.2 Computerisation of the Registration Department

Highlights

Computerisation of the Registration Department is yet to be fully completed, though started in 2001.

(Paragraph 4.2.4.1)

Digital/web cameras and bio-metric devices purchased for a sum of Rs.85.61 lakh could not be put to use for want of necessary software.

(Paragraph 4.2.4.2)

Lack of interconnectivity of the sub-registrar offices with the concerned taluk offices resulted in continued registration of the government lands in the name of private individuals.

(Paragraph 4.2.4.3)

Absence of provisions in the system resulted in manual intervention in collection of stamp duty in case of partition and excess allocation of surcharge to local bodies etc.

(Paragraph 4.2.5)

Absence of input controls and validation checks led to less assurance regarding completeness and validity of data.

(Paragraph 4.2.7)

Inadequate security controls resulted in modification of the registration details without authorisation by superior officers.

(Paragraph 4.2.8)

4.2.1 Introduction

The Registration Department planned to computerise its activities with the objectives of streamlining the works such as document recording, storage and retrieval of the documents, making its operation more transparent and providing the public with better and efficient services. Some of the activities identified for computerisation were generation of cash receipts, indexing of database of properties, generation of MIS reports, generation of encumbrance certificates and establishment work such as leave records, generation of pay roll etc., through three modules viz., Accounts, Indexing and Scanning.

Based on a system study conducted in 1996, the department started computerisation of the department through a project called STAR (Simplified and Transparent Administration of Registration) with the assistance of National Informatics Centre (NIC). The computerisation was taken up in a phased manner to cover 558 sub-registrar offices (SROs) (after reorganisation of the original 600 SROs) and 50 district registrar offices (DROs) and it was planned to be completed by 2003-04. The project is yet to be completed (June 2008) and implemented in full scale even after spending an amount of Rs. 99 crore.

4.2.2 Scope of audit

Computerisation of this department is one of the services envisaged under e-governance of the State Government. The review was carried out in 13 registration offices[1] between August 2007 and May 2008 covering the records relating to the period from April 2004 to March 2008.

4.2.3 Audit objectives

The objective of audit was to check whether

- the computerisation was in line with the objectives of the department;
- the system covered all the intended functions;
- the information in the database was reliable; and
- adequate security controls were in place.

Audit findings

It was observed that the system design was deficient and input controls, validation checks, access controls and security were insufficient, which led to ineffective management of the system and rendered the data incomplete, inaccurate and unreliable. The audit findings are discussed in the succeeding paragraphs.

4.2.4 Planning and implementation

4.2.4.1 Delay in implementation

It was noticed that 50 district registrar offices and 300 sub-registrar offices were computerised in three phases namely Phase-I, II(a) and II(b) by February 2000, January 2002 and September 2002 respectively. However, computerisation of the remaining offices scheduled to be covered in Phase-III and planned to be completed by 2003-04 was kept in abeyance on the grounds of re-organisation of the registration offices. The main objective of re-organisation of the registration offices was to have one sub-registrar office for every taluk office (206 taluk offices in the state) and to establish connectivity between them. The process of re-organisation started in 2003 was partially completed in 2005 by merging only 42 sub-registrar offices with the others. After this partial re-organisation, the department implemented the Phase-III computerisation in 150 offices (March 2006) after a delay of two years.

As per the Government policy, the plan was to complete the computerisation of the remaining 108 offices under Phase-IV during 2006-07. The department decided to go in for web based system using open source technology (Linux)

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1 Joint I Chenglepet, SRO-Joint II Coimbatore, Joint I Kanchipuram, Joint II & III Kanchipuram, Gandhipuram, Ganapathy, Pallavaram, Perambalur, Saidepet, Sriperumbudur, Triplicane, Valigandapuram and Vepanthattai.

based on an offer made by M/s.Electronic Corporation of Tamil Nadu (ELCOT) for Phase-IV. For this purpose Rs. 15 lakh was paid to M/s. ELCOT. The department did not approach NIC for switching over of the system even though the existing STAR project was developed by NIC and that NIC was not charging any cost for any software development from the Government departments. The department is yet to complete the computerisation in the remaining 108 offices (September 2008).

The department (September 2008) accepted the delay and stated that the initiatives were under way.

This indicated lack of clarity and definite strategy of the department which resulted in delay in implementation of the project.

4.2.4.2 Bio-metric devices

It was noticed that digital/web camera and bio-metric devices[2] were purchased utilising Rs. 18.90 lakh diverted from the amount sanctioned for Phase-III and Rs. 66.71 lakh further sanctioned by the Government in August 2005 and November 2007. However, it was observed that these devices were kept idle till date.

The department stated (September 2008) that the devices could not be put to use independently for want of software and NIC had been addressed by the department in this regard. This indicated adhoc purchases without any planned requirement.

4.2.4.3 Non-linking of the taluk offices with the registration offices

The Government had sanctioned an amount of Rs. 60 lakh for the purpose of establishing computer connectivity between 300 sub-registrar offices and the taluk offices so as to verify the *adangal*[3], *chitta*[4] and other records of the taluk offices with the registration records and transmit the details of registration to the taluk offices so as to facilitate comparison of land records. However, it was noticed that the amount was diverted for the purpose of establishing connectivity between the sub-registrar offices and the Reginet centre at Chennai for the Reginet project mentioned in paragraph 4.2.9.

The department stated that initially interconnectivity between the taluk and SR offices located within 100 meters from each other were made functional, but due to non-updation of data in the taluk offices, the interconnectivity could not be carried out. Audit test checked two taluk offices and it was found that the data available in the taluk offices were up-to-date and could be used by the Registration Department.

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2 A device to capture the bio-metric information like "thumb impression" in an electronic form.

3 Village account No.2 containing the details of survey number, extent, assessment and classification of land.

4 Account containing Land Ownership details.

Non-linking of the taluk offices with the registration offices led to the registration of documents involving the government lands that were prohibited as per G.O.Ms.No.150 (CT) dated 22 September 2000. A comparison of the data available in the SROs Joint I Chengalpattu and Thiruvottiyur with the records in the concerned taluk offices revealed that 2.49 lakh square feet of land valued at Rs. 65.82 lakh which were classified as the government lands in the revenue records were registered by the SROs in the name of private individuals in 19 cases. Though similar issue was reported in Para 3.2.9 of the Audit Report 2002-03 in respect of 827 cases, more transactions were entertained in two SRs (Alandur and Velachery) due to non-sharing of information between the two departments.

Thus, it is evident that the failure of the Government to monitor implementation of the scheme of connecting the taluk offices with the SROs resulted in irregular registration of the government lands.

4.2.4.4 Accounts module

Though NIC developed the accounts module alongwith the other modules in 2000 for the purpose of generation of cash receipts, challans, etc., the accounts module was never put to use. The department was using another accounts module developed free of cost by M/s.Broadline since 2004. It was noticed that the accounts module developed by M/s.Broadline had many deficiencies (as commented in paragraph 4.2.5 below).

The department replied (January 2008) that the accounts module running in the SROs since 2004 was in testing stage only and due to non-availability of the source code, corrections could not be carried out. The department further stated (September 2008) that since the module developed by NIC contained more discrepancies and for timely implementation of the project, the free accounts module developed by M/s Broadline was adopted. However, it was noticed that the software developed by M/s Broadline also contained many deficiencies and was stated to be continued in testing stage only even after four years. Continued use of a software without any source code or design document and without documenting any other reasons for its adoption, despite availability of the NIC module free of cost, reflected the adhocism in computerisation.

4.2.5 System design deficiencies

Deficiencies in the system warranted manual interventions and bypassing of the system as noticed in the following paragraphs.

4.2.5.1 The system has provision to collect the fees for the different kinds of documents like sale, mortgage, lease, partition etc. In the case of partition deed, normally a document contains more than one schedule. As per the Indian Stamp Act, the stamp duty for the partition deeds is to be levied at one *per cent* of the market value of the property separated subject to a maximum of Rs. 10,000 per share and the registration fees is to be collected at one *per cent* of the market value of the property subject to a maximum of Rs. 2,000.

It was noticed that the system calculated the stamp duty and registration fee for single schedule only irrespective of the number of schedules contained in the document. In such cases, the department collected the short computed amount by manual intervention.

4.2.5.2 The stamp duty and transfer duty surcharge on the value of the instrument were collected and the portion of the transfer duty surcharge were allocated to the local bodies. As per the Inspector General of Registration order No.59985/C1/81 dated 8 March 1982, no surcharge shall be imposed on the sale amount covered by transfer of movable property. The system though provided for collection of the stamp duty including transfer duty surcharge, it did not have provision to capture the value of immovable property and movable property separately and levy surcharge accordingly. The business rule of exempting the surcharge for movable property was not mapped in the system.

Absence of such provision in the system led to allocation of surcharge to the local bodies in respect of transfer of movable properties also. No action has been taken to rectify the deficiency in the system though such excess allocations of transfer duty surcharge amounting to Rs. 9.29 crore in 2,627 cases were pointed out repeatedly in the Audit Reports for the year 2004-05, 2005-06 and 2006-07.

4.2.5.3 Though provision was made in the system to capture the collection of deficit stamp duty paid in cash to the sub-registrar at the time of registration in the SROs, the provision to record the collection of deficit stamp duty paid by the registrant to the bank through cheque or demand draft was not made in the system. It resulted in the system showing non-collection of deficit stamp duty in 1,902 cases in 13 offices. Manual interventions were resorted to correct these differences.

4.2.5.4 The department had plan to have an integrated system of various modules such as Accounting, Indexing and Scanning. However, these modules were not integrated and resulted in repeated capture of the information like value of the property, stamp value, date of registration etc. in the different modules giving room for inconsistencies and duplication of work. It was found that the value of the properties (67,203 cases) and the stamp value (858 cases) were indicated differently in the Accounts module and Indexing module and in 3,367 cases, the registration dates in the Accounts, Indexing and Scanning modules were not same. Thus, duplication of data entry led to lack of integrity of data and increase of work load.

4.2.6 Mapping of business rules

All the relevant business rules and procedures were required to be identified and suitably incorporated in the system. As per the G.O. dated 21 February 1989, a fine has to be levied where there is a delay of more than four months in presentation of the document for registration after the date of its execution. In the absence of such provision in the system, collection of fine was done manually.

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4.2.7 Input controls and validation checks

Absence of input controls and validation checks led to incomplete and invalid data as cited below:

- Boundary details[5] in 99,119 out of 10.48 lakh cases of the properties, addresses in 20.87 lakh out of 32.20 lakh cases, permanent account number in 2,785 out of 2,785 cases and parent name of the claimants and executants in 18.51 lakh out of 32.20 lakh cases were not captured in the system.
- The dates of registration in 2,730 cases and dates of presentation and execution in 5,885 cases were captured incorrectly.

Registration manual provided for test check and certification of the entries in the Index Registers by the registering officer either annually or whenever there is a change in the incumbent. This secondary level checking is vital for ensuring correctness of the data for issue of encumbrance certificate and archival of the document. However, it was noticed that the prescribed test check was not done by the registering officers in 13 offices.

4.2.8 Security controls

Inadequate security controls built in the system resulted in unauthorised modification of the data and missing receipt numbers as detailed below:

- The system did not have a provision to capture the details of modification of data in between the first creation and the last modification indicating deficient audit trails.
- The system permitted modification of the details of registration by the data entry operator without proper authorisation from the superior officers. It was found that in 78,781 cases the relevant details were modified in the system without proper authorisation.
- Though the department has a password policy, the system did not force change of passwords at regular intervals.
- In the registration offices, receipts are issued for collection of various fees like registration fees, stamp duty, fees for encumbrance certificates etc. An analysis of the database in 13 offices revealed that 24,008 receipt numbers were found missing and the reasons thereon was not available in the system. This indicated that there was no control mechanism to prevent deletion of the receipts or to record the reasons for deletion.

4.2.9 REGiNET Services

The REGiNET service centre was setup in 2002 with the purpose of

- issuing of encumbrance certificate (EC) of any land property and

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5 Information about the properties surrounding in all four sides of the property registered

- making available the statewide information on guideline values to the public

Under the scheme, the data available in all the computerised registration offices were required to be uploaded daily to the Reginet Centre at Chennai and information about EC of any property could be accessed from this centre. This enabled the citizen to get the EC of any property located anywhere in the State. As on 30 April 2008, the Reginet Centre provided the above mentioned service in respect of documents registered in 5 DR offices covering 50 SR offices.

It was observed from the MIS report generated from the Reginet database on 30 April 2008 that uploads were pending from 36 offices due to technical problems and the latest data was not available in the system. In 2,083 cases, the ECs were found to be issued based on the data which was not updated. Further, it was noticed that for 79,867 documents, certain entries were missing in five offices[6] which had uploaded the data up-to-date.

The Reginet Centre accepted the problems in uploading the data and put the onus of responsibility of uploading the data on the concerned SR offices. This indicated deficient coordination and control of the Reginet Centre posing the risk of incorrect issue of ECs.

4.2.10 Conclusion

Though the e-services rendered by the Registration Department with regard to storage, retrieval of documents and furnishing of on-line guideline value were achieved to a large extent, the computerised system had deficiencies with respect to system design, input controls, and security controls, which resulted in ineffective management of the system and rendered the information generated unreliable. The Government's failure to monitor implementation of the scheme of interconnecting the registration offices with the taluk offices resulted in non-achievement of the intended objective of transparency and public service. The computerisation programme started a decade ago has not yet been completed, which reflected adhoc planning and implementation of the project.

4.2.11 Summary of recommendations

The Government may take necessary action to

- correct the system deficiencies pointed out by Audit and also ensure correctness of the data entry by enforcing strict input controls and validation checks;
- have inbuilt adequate security controls to prevent unauthorised access to the system; and
- ensure timely uploading of data from all the registration offices to the Reginet centre.

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6 SRO-Pallavaram, Joint-I Chengelpattu, Sriperumbudur, Triplicane and Joint-I Chennai South.

4.3 Non-realisation of stamp duty due to incorrect exemption

According to the notification dated 29 June 1966, issued under the Co-operative Societies Act, remission of stamp duty chargeable under the Indian Stamp Act is admissible in respect of the instruments executed by a member of a registered co-operative society provided that the executant is a member of such society continuously for a period of not less than two years.

Test check of the records in three sub-registrar (SR) offices between January 2006 and January 2008 revealed that 100 members of four housing societies sold their lands measuring 16.61 lakh sq.ft. to their respective society for a consideration of Rs. 39.14 crore. These instruments were exempted from payment of stamp duty, despite the fact that the executants were not members of the society concerned for a continuous period of not less than two years. This incorrect grant of exemption resulted in non-realisation of stamp duty of Rs. 3.13 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the registry	Number of vendors/ Total extent of land conveyed	Month of execution of the documents	Month in which the vendors became the members of the society	Value of the property conveyed	Stamp duty involved
1.	Ambattur	72/2.72 lakh square feet	April and June 2004	June 2003 and March/April 2004	2.64	0.21
2.	Gudu-vancherry	19/10.72 lakh square feet	October 2005 and January 2006	September 2005	16.06	1.28
3.	Kundrathur	9/3.17 lakh square feet	February 2007	November 2006	20.44	1.64
Total		**100/16.61 lakh sq.ft.**			**39.14**	**3.13**

After the cases were pointed out between April 2006 and February 2008, the SRs Ambattur and Kundrathur stated between June 2006 and November 2007 that as the purchaser society was not involved in any construction activity, the minimum period of two years membership in the society specified in the Government order was not applicable and the remission of stamp duty was in order. The reply is not tenable as the second proviso of the notification stipulates that the minimum period of two years is applicable to all the registered societies. The SR Guduvancherry stated in January 2008 that the society concerned would be addressed in this regard. Further report has not been received (November 2008).

The matter was reported to the Government in November 2007 and February 2008; their reply has not been received (November 2008).

4.4 Short levy due to undervaluation of property

According to Article 23 of Schedule I of the Indian Stamp Act, 1899, stamp duty is payable on the market value of the property. According to Section 27 of the Indian Stamp Act, the consideration, market value and all other facts and circumstances affecting chargeability of the instrument with duty shall be fully and truly set forth in the instrument. As per Rule 3 (4) of the Tamil Nadu Stamp (Prevention of undervaluation of instruments) Rules, 1968, the registering officer may also consider the value of the property as per guide lines register for the purpose of verifying the market value.

Test check of the records in three registering offices revealed that there was undervaluation of property and consequent short levy of stamp duty and registration fees of Rs. 6.93 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the registering office	No.of sale deeds/ Extent of land conveyed	Month of regis-tration	Nature of audit observation	Amount short levied
1.	Tambaram	5/ 20.65 lakh sq.ft.	March 2006	Five documents were executed for a piece of land measuring 20.65 lakh sq.ft. in March 2006. Out of this, in two documents, 6.42 lakh sq.ft. was valued at the rate of Rs. 285 per sq.ft. while in the remaining three documents, instead of adopting a uniform rate, the land was valued at the rate of Rs. 111 per sq.ft. This resulted in undervaluation of property by Rs. 11.14 crore.	1.00
Remarks: The District Registrar, Chennai South accepted the audit observation in October 2007. However, action taken to recover the amount has not been stated (November 2008).					
2.	Tiruporur	10/ 30.75 acres	Between April 2006 and February 2007	It was noticed that while registering 30.75 acres of land between April 2006 and February 2007 purchased by a company, the SR adopted the rate between Rs. 11 and Rs. 46 per sq.ft. as applicable to the agricultural land for determination of the market value of the land and stamped it accordingly. However, scrutiny of the records revealed that the said land was approved for residential purposes in March 2006 and the market value of the land at the residential rate was Rs. 500 per sq ft. The application of incorrect rates resulted in undervaluation of property by Rs. 64.16 crore having tax effect of Rs. 5.77 crore.	5.77
Remarks: The Sub Registrar, Tiruporur replied that there was no loss of revenue as the market value of the land had to be valued on the date of deed of conveyance and it did not depend on the future or intended use of the land by the purchaser. The reply of the department is not tenable as the land was approved for residential purposes in March 2006, before registration of the documents in April 2006 and as such the residential rates should have been applied for determination of the market value. Besides, the department had itself valued another piece of land falling within the vicinity of the land at residential rates and hence application of agriculture rate was incorrect.					

3.	Ambattur	1/ 81,457 sq.ft.	May 2005	A piece of land measuring 81,457 sq. ft. located in Survey Number 84, Ayanambakkam Village was conveyed through a sale deed registered in May 2005. The registering officer adopted the value of the land at Rs. 194.40 per sq.ft. as set forth in the document instead of Rs. 400 per sq.ft. fixed earlier by the department in respect of lands in the same area. This resulted in undervaluation of the property by Rs. 1.67 crore and consequent short levy of duty.	0.16
Remarks: After the case was pointed out, the department accepted the audit observation and recovered Rs. 10 lakh instead of Rs. 16 lakh. The department stated that the balance amount had been remitted under the samadhan scheme, though it was not admissible as there was no dispute in paying stamp duty in this case.					
				Total	**6.93**

The matter was reported to the Government in February and March 2008; their reply has not been received (November 2008).

4.5 Short levy due to misclassification

According to Article 45(b) of Schedule I to the Indian Stamp Act, 1899, on an instrument of partition among persons other than family members, stamp duty shall be levied at the rate of four *per cent* of the amount of the value of the separated share or shares of the property.

Test check of the records in the office of the SR, Neelankarai in August 2006 revealed that through a partition deed of an asset of a partnership firm, six plots of land each measuring one acre was partitioned among three partners of the firm. The total value of the six acre plots was Rs. 8.49 crore, out of which, four acres valued at Rs. 5.67 crore were separated through the deed. As the partition was not among the family members, stamp duty of Rs. 28.31 lakh should have been collected. However, only Rs. 36,000 was collected as stamp duty treating the transaction as partition among the family members. This incorrect classification resulted in short levy of stamp duty and registration fees of Rs. 27.95 lakh.

After this was pointed out to the department in November 2006 and to the Government in January 2007, the Government in May 2007 accepted the audit observation and stated that action had been initiated under Section 33A to recover the amount. Further report regarding recovery of the amount has not been received (November 2008).

4.6 Short levy of stamp duty in respect of lease deed

According to Article 35(a)(vii) of Schedule I to the Indian Stamp Act, 1899, with effect from 6 March 2000 to 15 December 2004, in respect of a lease where the rent is fixed and the lease is for a term exceeding 50 years but not exceeding 100 years, stamp duty was leviable on 75 *per cent* of the market value of the concerned property. The rate of stamp duty was seven *per cent.*

Prior to 6 March 2000, for a lease exceeding 30 years but not exceeding 100 years, the stamp duty leviable was on a value equal to four times of the value of the average annual rent.

Test check of the records in the office of the SR, Eraniel in December 2007 revealed that as per the lease deed registered in February 2003, land measuring 10.90 lakh square feet valued at Rs. 2.72 crore was leased for 99 years. Accordingly, stamp duty leviable on the 75 *per cent* of the market value of the property was Rs. 14.31 lakh. However, only a sum of Rs. 280 was levied and collected as stamp duty, adopting the pre-revised rate which resulted in short levy of stamp duty of Rs. 14.30 lakh.

The Government accepted the audit observation in September 2008. However, it stated that since more than five years had elapsed, the collection had become time barred. It further stated that disciplinary action had been initiated.

4.7 Short collection of registration fees

4.7.1 As per Schedule I to the Indian Stamp Act, 1899, mortgage deed executed by a surety to secure the due performance of a contract is classifiable under Article 57. The registration fee of one *per cent* is to be levied on the amount secured. Further as per Article 40 of the Act, stamp duty of one *per cent* subject to a maximum of Rs. 20,000 is leviable in those cases that do not fall under Article 57 of the Act.

Test check of the records in five sub-registries[7] between September 2007 and February 2008 revealed that nine mortgage deeds and two instruments of agreement were registered between April 2006 and March 2007, for securing repayment of loan of Rs. 384 crore granted by the mortgagees to the borrowers. The recitals of the documents revealed that in the event of default of the borrowers to repay the loan, the mortgagors shall be liable to pay to the mortgagees the loan amount. Therefore, the instruments were required to be treated as security mortgage deeds classifiable under Article 57 and accordingly registration fees of Rs. 3.84 crore should have been collected. However, the concerned registering officers incorrectly classified the instruments under Article 40 and charged registration fees of only Rs. 55,000 (Rs. 5000 each). The misclassification had resulted in short collection of registration fees of Rs. 3.83 crore.

After this was pointed out between September 2007 and February 2008, the department stated that these were mortgage deeds falling under Article 40. The reply is not tenable as the deeds were executed by person(s) other than the borrower for the due performance of the contract and as such they fell under Article 57.

The matter was reported to the Government in February and March 2008; their reply has not been received (November 2008).

[7] Konnur, Mylapore, Nilankarai, Pallavaram and Tiruporur.

4.7.2 As per proviso to clause "1" of the Table of Fees given under Section 78 of the Registration Act 1908, in cases of agreements to sell property, where possession is handed over or is to be handed over, the fee leviable shall be on the intended sale consideration.

Test check of the records in the office of the SR, Tiruporur in September 2007 revealed that an agreement was executed in October 2006, between the land owner and a developer for transfer and development of land measuring 16.03 acres, as integrated residential-cum-commercial complex. The recitals of the deed stipulated that the developer shall pay an interest free loan of Rs. 10 crore to the owner of the land and paid a stamp duty of Rs. 100 and registration fees of Rs. 10 lakh being one *per cent* of the loan amount. The recital of the deed further revealed that every gross realisation received from disposal of the property shall be distributed in the ratio of 36:64 between the owner and the developer. Thereafter 15 *per cent* of each payment made to the owner shall be transferred to the developer's account until the loan amount of Rs. 10 crore advanced by the developer is adjusted. Thus, the consideration payable to the owner till repayment of the advance was Rs. 66.67 crore[8]. As such, registration fees of Rs. 66.67 lakh was to be collected as against Rs. 10 lakh collected by the department. The incorrect determination of the intended consideration had resulted in short collection of registration fees of Rs. 56.67 lakh.

The matter was reported to the Government in February 2008; their reply has not been received (November 2008).

4.8 Loss of revenue due to incorrect withdrawal of the documents

As per Section 47A (1) of the Indian Stamp Act, 1899, if the registering officer has reason to believe that the market value of the property conveyed has not been truly set forth in the instrument, he may after registering such instrument refer it to the Collector for determination of the correct market value of the property and the duty payable thereon. There is no provision in the Act for the registering officer to withdraw the reference made under Section 47A (1).

Test check of the records of the office of the SR, Guduvancherry in January 2008 revealed that the registering officer referred two sale documents under Section 47A (1) to the District Revenue Officer (Stamps) in November 2005 for determination of the market value of lands measuring 2.56 lakh square feet on the ground that the value of Rs. 11.76 lakh set forth in the documents was lower than the market value of Rs. 5.89 crore determined by him. However, after 16 months (March 2007) the references were withdrawn by the registering officer, before determination of value of the property by the District Revenue Officer (Stamps) and he returned the documents to the buyer of the property in April 2007 accepting the value originally set forth in the documents. This resulted in loss of revenue of Rs. 51.93 lakh.

8 15 per cent of Owner's share is equal to Rs.10 crore. Therefore the owners' share is 100/15 X Rs.10 crore is equal to Rs.66.67 crore.

After this was pointed out by audit in February 2008, the SR, Guduvancherry replied that the documents were withdrawn as per the direction of the Inspector General of Registration. However, no evidence for such direction was produced to audit. Besides, the department's reply was silent about deviation from the provisions of the Act. Further report has not been received (November 2008).

The matter was reported to the Government in April 2008; their reply has not been received (November 2008).

4.9 Delay in referring the document to the Special Deputy Collector (Stamps)

Under the Indian Stamp Act, 1899, if the registering officer has reason to believe that the market value of the property has not been truly set forth in the instrument, he may after registering such instrument, refer it to the Special Deputy Collector (Stamps) for determination of the correct market value of the property and duty payable thereon. In accordance with the instruction issued by the Inspector General of Registration, Chennai from time to time, the undervalued documents were required to be sent to the Special Deputy Collector (Stamps) under Section 47 A (1) within 21 days from the date of registration.

Test check of the records of the office of the SR, Tambaram in January 2008 revealed that lands measuring five acres in Tambaram Village was found undervalued by Rs. 6.63 crore at the time of registration i.e, in February 2007. The deed was required to be referred to the Special Deputy Collector (Stamps) for determination of the true market value of the land within 21 days from the date of registration but, it was not referred. This resulted in short levy of stamp duty and registration fees of Rs. 54.31 lakh

After this was pointed out, the department referred the case to the Special Deputy Collector (Stamps) for determination of the true market value on 24 January 2008. Further action taken has not been intimated (November 2008).

The matter was reported to the Government (May 2008) and the reply has not been received (November 2008).

4.10 Excess allocation of transfer duty surcharge to local bodies

Under the provisions of Tamil Nadu Panchayat Act, 1994, a duty on transfer of property shall be levied in the form of surcharge (transfer duty surcharge) along with stamp duty imposed under the Indian Stamp Act, 1899, on instruments of sale, exchange, gift, etc. of immovable property. The rate of surcharge is two *per cent* of the market value of the property transferred. The surcharge so collected is required to be allocated to the local bodies.

4.10.1 Test check of the records in five registering offices[9] during the period between August 2007 and February 2008 revealed that for the quarters ending December 2006, March 2007 and June 2007, there was excess allocation of transfer duty surcharge of Rs. 10.95 crore to the local bodies due to clerical error.

After this was pointed out in audit between September 2007 and March 2008, the SRs concerned stated that the excess allocation would be adjusted in the subsequent quarter. Further report has not been received (November 2008).

4.10.2 Similarly, test check of the records in 34 registering offices[10] between December 2006 and February 2008 revealed that in respect of 427 documents, transfer duty surcharge was erroneously calculated or allowed in excess to the local bodies. This resulted in incorrect allocation of Rs. 1.54 crore.

After this was pointed out in audit between January 2007 and March 2008, it was replied by the department that an amount of Rs. 62.78 lakh pertaining to 17 registering offices had been recovered by way of adjustment between March and December 2007 from the subsequent allocation made to the local bodies concerned. Report on recovery/adjustment of the balance amount has not been received (November 2008).

The matter was reported to the Government between November 2007 and April 2008; their reply has not been received (November 2008).

4.11 Short levy of stamp duty and registration fees due to suppression of facts

As per Article 23 of the Schedule I to the Indian Stamp Act, 1899, in the case of conveyance of immovable property, stamp duty is leviable on the market value of the property, which is the subject matter of conveyance. According to Section 27 of the Act, all facts and circumstances affecting chargeability of any instrument with duty shall be fully and truly set forth in the instrument.

As per the Registration Act, 1908, immovable property, *inter-alia,* includes land, buildings and things attached to the earth or permanently fastened to anything which is attached to the earth. Any transfer of rights having money value of Rs. 100 and above in immovable property is compulsorily registerable.

9 Marakkanam, Neelangarai, Sulur, Thiruvallur and Tiruchirappalli.

10 Ambattur, Annanagar, DR Arakkonam, Chengleput, DR Chengleput, Cheyyur, Chokkikulam, Coimbatore, DR Coimbatore, Gummidipoondi, Hosur, Katpadi, DR Madurai (S), Manapparai, Padappai, Palayamkkottai, Pallavaram, Periamet, Ponneri, Poonamallee, DR Pudukkottai, Sathanur, Salem West, Sembium, Sulur, Saidapet, Tambaram, Thirupporur, Thiruthani, Thiruvallur, Thiruvottiyur, DR Trichy, Velur and Woraiyur,

4.11.1 Test check of the records of 12 SR offices[11] with the records maintained in the Tamil Nadu Electricity Board between December 2007 and March 2008 revealed that lands on which 75 wind mills were erected were registered between 2005 and 2007 through 23 sale deeds and four lease deeds. The Registering officers while registering the deeds levied duty only on the land and omitted to levy the stamp duty on the wind mills valued at Rs. 144 crore. This resulted in short levy of stamp duty of Rs. 12.96 crore.

After the cases were pointed out in March 2008, it was replied by the concerned sub-registrars that in the sale deeds there was no mention about the wind mills and further stated that the matter would be taken up with the higher authorities for taking further action. Further report has not been received (November 2008).

The matter was reported to the Government in March and April 2008; their reply has not been received (November 2008).

4.11.2 Test check of the records in the office of the Joint III Sub Registry, Town Hall, Trichy in March 2005 revealed that seven persons purchased property from a firm through execution of four sale deeds. The recitals of the deeds revealed that only a piece of land measuring 5,276 sq.ft. was purchased. However, a cross check of the deeds with the deeds executed earlier for the same piece of land revealed that buildings had existed on this piece of land. The parties while executing the deeds had omitted to include the value of the building of Rs. 1.33 crore in the consideration shown in their respective sale deeds. This had resulted in short levy of stamp duty and registration fees of Rs. 18.25 lakh.

After this was pointed out to the department in May 2005 and to the Government in February 2007, the Government accepted (May 2007) the observation and stated that a demand of Rs. 13.45 lakh had been raised towards the deficit stamp duty and registration fees after ascertaining the actual area of building. It was further informed in June 2007 that, since the persons failed to pay the deficit stamp duty and registration fees within the time allowed, action was initiated to collect the amount through legal proceedings under Section 27 and 64 of the Indian Stamp Act. Further report, and reasons for raising lesser demand than pointed out by audit has not been received (November 2008).

11 Alangulam, Dharapuram, Gangaikondan, Kaniyur, Kayathar, Keeranur, Panangudi, Radhapuram, Tenkasi, Thovalai, Udumalapet and Uthumalai

4.12 Incorrect remission of stamp duty

As per Article 63 of Schedule I to the Indian Stamp Act, 1899, in the case of 'transfer of lease', by way of assignment, stamp duty is leviable at the rate of six *per cent* on the market value equal to the amount of consideration for the transfer. In the Government order dated September 2003, remission of 50 *per cent* of duty was given in respect of the instruments executed by SIPCOT[12] for sale, lease or lease-cum-sale of the developed industrial plots and sheds.

Test check of 14 lease deeds in the office of the SR, Gummidipoondi in April 2006 revealed that SIPCOT had leased out lands to 14 lessees and stamp duty was levied at concessional rate. The lessees again transferred the lease rights in favour of other persons, firms etc. and requested the SIPCOT to modify the lease deed. The registering officer while registering these modified lease deeds either levied the stamp duty at incorrect rate or allowed remission of stamp duty, which was not admissible. This resulted in short levy of stamp duty of Rs. 90.63 lakh.

After this was pointed out in audit in June 2006, the sub-registrar, Gummidipoondi replied (October 2007 and July 2008) that a sum of Rs. 49.58 lakh had been collected. He further sated that demand had been raised for Rs. 15.07 lakh in respect of three documents. Report on the recovery and reply in respect of the balance cases has not been received (November 2008).

This was reported to the Government in February 2008; their reply has not been received (November 2008).

4.13 Short levy of stamp duty in respect of mining lease deeds

As per the provisions of the Tamil Nadu Minor Mineral Concession Rules, 1959, mining leases are required to be compulsorily registered. As per Article 35 of Schedule I to the Indian Stamp Act, 1899, as amended by Act 31 of 2004, with effect from 16 December 2004, where the period of lease is below 30 years, stamp duty is leviable on the rent, fine, premium or advance, if any, payable for the entire term of lease and the rate of stamp duty is one *per cent*.

4.13.1 Test check of the records in the office of the Assistant Director of Geology and Mining, Perambalur in October 2007 revealed that a mining lease deed for quarrying limestone for 20 years was executed in October 2006 and registered in November 2007. Stamp duty of Rs. 39.48 lakh was leviable on royalty payable on the total planned production of limestone of 81.10 lakh MT, annual compensation, lease rent and surface rent for 20 years. However, only Rs. 31.13 lakh was levied on 68.84 lakh MT for 20 years, taking into account the average production of the first five years. The annual

12 Small Industries Promotion Corporation of Tamil Nadu.

compensation, lease rent and surface rent payable for only one year was adopted instead of the value for 20 years, which resulted in short levy of stamp duty of Rs. 8.35 lakh.

4.13.2 Test check of the records in the office of the Assistant Director of Geology and Mining, Madurai in November 2007 revealed that a mining lease deed for quarrying granite for 20 years was executed and registered in March 2007. Stamp duty of Rs. 7.56 lakh was leviable on the estimated seigniorage fee of Rs. 7.56 crore for 20 years. However, only Rs. 40,000 was levied taking into account one year's seigniorage fees of Rs. 37.80 lakh, which resulted in short levy of stamp duty of Rs. 7.16 lakh.

The matter was reported to the department in November and December 2007 and to the Government in January 2008; their replies have not been received (November 2008).

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CHAPTER V

OTHER TAX AND NON TAX RECEIPTS

5.1 Results of audit

Test check of the records of the departmental offices during the period from April 2007 to March 2008 revealed non/short levy of royalty, dead rent and seigniorage fee and other observations, amounting to Rs. 170.67 crore in 118 cases as mentioned below.

(Rupees in crore)

Sl.No.	Categories	No. of cases	Amount
A	**Urban Land Tax**		
1.	Non/short levy of urban land tax	6	0.22
B	**Land Revenue**		
1.	Short recovery of rent in respect of lands assigned, alienated or evicted	5	10.75
2.	Other irregularities	61	83.32
C	**Mines and Minerals**		
1.	Non/short levy of royalty, dead rent and seigniorage fee	30	2.55
2.	Other irregularities	15	0.41
D	**Environment and Forest Department**		
	Forest Receipts – (A review)	1	73.42
	Total	**118**	**170.67**

During the course of the year 2007-08, the department concerned accepted non/short levy amounting to Rs. 2.79 crore in 142 cases, out of which, Rs. 1.36 crore involved in four cases was pointed out during the year and the rest in the earlier years. Of this, the department recovered Rs. 1.44 crore.

After issue of the draft paragraphs, the department recovered Rs. 16.13 lakh pertaining to a single observation pointed out during 2007-08.

A few illustrative cases and review of the **"Forest Receipts"** involving Rs. 75.07 crore are discussed in the following paragraphs.

A - URBAN LAND TAX

5.2 Non-levy of urban land tax

Under the Tamil Nadu Urban Land Tax Act, 1966, as amended from time to time, urban lands are assessable to urban land tax from 1 July 1991 on the basis of the market value of the land.

Test check of the enumeration register and book of assessments in four[1] offices of the Assistant Commissioner (Urban Land Tax) during October 2002 and October 2005 revealed that due to failure of the departmental officers to initiate the assessment procedures like spot verification etc. of the urban lands in each survey numbers and the owners, urban lands measuring 46.30 lakh square feet belonging to 111 assessees were omitted to be assessed to tax from 1 July 1991 onwards. This resulted in non-levy of urban land tax of Rs. 36.38 lakh between 1 July 1991 and 30 June 2006.

After the cases were pointed out between October 2003 and May 2006, the department stated between September 2003 and February 2008 that all the assessments were completed. Report on collection of the amount has not been received (November 2008).

The matter was reported to the Government between January and April 2008; their reply has not been received (November 2008).

5.3 Failure to serve demand notice for urban land tax

According to Section 14(1) of the Tamil Nadu Urban Land Tax Act, 1966 read with Rule 5 of the Tamil Nadu Urban Land Tax Rules, a notice of demand is to be served on the assessee by the Urban Land Tax Officer in Form 6. Section 15 of the Act provides for serving of separate demand notice for every fasli year.

Test check of the records in three[2] offices of the Tahsildar (Urban land tax) between July and September 2004, revealed that the assessments in respect of 26 assessees were passed by the Assistant Commissioners concerned between February 1994 and May 2003 and received by the Urban Land Tax Officers (Tahsildar, Urban Land Tax), but demand notices were not issued by the Urban Land Tax officers. This resulted in non-collection of urban land tax of Rs. 12.42 lakh from 1 July 1991 onwards.

1 Alandur, Poonamallee, Tambaram and T.Nagar.

2 Egmore-Nungambakkam Taluk, Kumbakonam and Ponneri.

After the cases were pointed out in September/October 2004, the Tahsildar, Egmore-Nungambakkam Taluk replied (June 2007) that an amount of Rs. 2.84 lakh out of a demand of Rs. 2.93 lakh had been collected. Report on recovery of the balance amount and reply in respect of the other two taluk offices have not been received (November 2008).

The matter was reported to the Government in February 2008; their reply has not been received (November 2008).

B – LAND REVENUE

5.4 Non-realisation of cost of land

According to the Board of Revenue Standing Orders 24(1), Government lands can be granted for public purpose on collection of the land cost.

Test check of the records in two offices[3] between December 2001 and July 2007 revealed that there was a delay in fixing the cost of lands alienated by the Government. This had resulted in non-realisation of land cost of Rs. 3.09 crore as detailed below:

5.4.1 The Government vide orders dated March, 1997 alienated lands measuring 9.735 hectares in favour of two Corporations subject to collection of the cost of land at the prevailing market rates by the department. The Tahsildar, Salem worked out the cost of the land as Rs. 2.49 crore and sent it to the District Revenue Officer in May 2000. The proposal was sent to the Commissioner of Land Administration in December 2004, who returned the proposal stating that it was the responsibility of the District Revenue Officer/ District Collector to fix the land cost and collect it. Thus, there was no need to send the proposal to the Commissioner for approval. The undue delay of 11 years (1997 to 2008) in finalising the cost of the alienated land by the department has resulted in non-raising of demand of Rs. 2.49 crore.

After this was pointed out, the Tahsildar, Salem replied (February 2003) that action would be taken to finalise the proposal to the best advantage of the Government. However, no reply regarding collection of the land cost has been received so far (November 2008).

5.4.2 The Government vide orders dated May 1998 alienated 2.18 lakh square feet of land in Veerapandi Village of Theni Taluk to the Tamil Nadu Civil Supplies Corporation Ltd. subject to collection of cost of the land at the prevailing market rates by the department. The tahsildar fixed the cost of the land as Rs. 59.54 lakh and forwarded the proposal to the District Revenue Officer in September 2000 which has still not been approved. Thus, demand

[3] Salem and Theni

has not been raised even after a lapse of 10 years. This resulted in non-realisation of revenue of Rs. 59.54 lakh.

After the case was pointed out in July 2007, the Tahsildar, Theni replied that alienation of Government land was a time consuming process and proposals for alienation had to be cleared at each and every level before reaching the final authority and so the delay. The reply is not tenable as the Government had issued orders for alienation of the land in May 1998. But the cost of land has not been collected till date (November 2008) due to undue delay in submitting the proposal and fixation of the land cost.

The matter was reported to the Government between October 2007 and February 2008; their reply has not been received (November 2008).

C - MINES AND MINERALS

5.5 Adoption of incorrect rate of royalty

According to Section 9 of the Mines and Mineral Development and Regulation Act, 1957, the lessee shall pay royalty for the minerals consumed or removed from the leased area, at the rate specified in the second schedule to the Act. By a notification issued in October 2004, Government of India fixed the rate of royalty for bauxite (aluminium ore) at 0.40 *per cent* of London Metal Exchange Aluminium price[4] (LME).

Test check of the records in the offices of the Assistant Director of Geology and Mining, Salem and Namakkal in August and September 2007 disclosed that a company removed 5.41 lakh MT of bauxite during the period August 2005 to March 2007. The royalty leviable on the bauxite removed during the said period ranged between Rs. 48.46 and Rs. 74.28 per MT as against Rs. 46.86 per MT collected. The department collected the royalty without determining the amount based on the LME rate. The adoption of incorrect rate resulted in short collection of royalty of Rs. 1.04 crore.

After the case was pointed out in August/ September 2007, the Assistant Director of Geology and Mining, Salem replied that the royalty based on LME would be fixed for the year 2004-05 to 2006-07 and the difference, if any found, would be collected. The Assistant Director of Geology and Mining, Namakkal stated that action would be taken. Further reports have not been received (November 2008).

The matter was reported to the Government (February 2008); their reply has not been received (November 2008).

4 The average metal price in the London Metal Exchange for aluminium during the period of computation of royalty is referred as LME aluminium price for the purpose of computation of royalty.

D - ENVIRONMENT AND FOREST DEPARTMENT

5.6 Forest Receipts

Highlights

- Out of the 29 territorial forest divisions in the State, 16 divisions did not have working plans for management of the forests. This resulted in non-realisation of the revenue from timber extraction and stalling of the regeneration activities in the forest.

(Paragraph 5.6.7)

- There was short demand of lease rent amounting to Rs. 2.03 crore in five cases due to non-revision of the lease rent.

(Paragraph 5.6.8.1)

- Land cost of Rs. 1.60 crore was not collected from M/s.Neyveli Lignite Corporation, even though the land was handed over to the corporation as early as in July 1990.

(Paragraph 5.6.13)

- There was short realisation of lease rent amounting to Rs. 69.94 crore from two clubs due to adoption of the incorrect rates.

(Paragraph 5.6.14)

- There was loss of revenue of Rs. 6.67 crore due to inconsistency in determining the sale price of sandalwood.

(Paragraph 5.6.15.1)

5.6.1 Introduction

The subject 'Forests' is included in the 'Concurrent List' in the seventh Schedule to Article 246 of the Constitution of India. The Indian Forest Act, 1927 and Forest Conservation Act, 1980, which are the Central Acts and the Tamil Nadu Forest Act 1882 govern the protection and management of forests in the State. Under the Acts, it is necessary to get prior approval of the Government of India (GOI) for use of the forest land for non-forestry purposes. Forests in Tamil Nadu constitute 21.25 *per cent* of the geographical area of the State. The Forest Department formed in 1856 generates revenue through sale of timber, teakwood, sandalwood, firewood, bamboo, other minor forest produce and lease of the forest land. In addition, the receipts consist of sale from confiscated goods and vehicles involved in forest offences. The exploitation of forest produce is done either departmentally or through agencies under the overall supervision of the Forest Department.

The system of collection of the forest receipts was reviewed in audit. It revealed a number of system and compliance deficiencies which are discussed in the subsequent paragraphs.

5.6.2 Organisational set up

The Forest Department is headed by the Principal Chief Conservator of Forests (PCCF) under the administrative control of Secretary (Environment and Forests). The entire State is divided into 12 territorial circles each headed by a Conservator of Forests (CF). The circles are subdivided into 99 divisions headed by District/Divisional Forest Officers (DFO)/Wildlife Wardens. The divisions are further divided into ranges headed by range officers.

5.6.3 Audit objectives

The review was conducted to ascertain

- whether the working plans for management of the forests were prepared and got approved in time to facilitate timely extraction of the trees;
- the efficiency and effectiveness of the existing system of leasing of the forest lands for non-forestry purposes and realisation of revenue therefrom;
- the extent of compliance with the provisions of the relevant Acts and Rules governing the collection of revenue; and
- whether the internal control system as applicable to revenue administration in the department was adequate and effective.

5.6.4 Scope of audit

Records pertaining to the period 2002-03 to 2006-07 in the Secretariat of the Government of Tamil Nadu (Environment and Forest Department), PCCF office, five circle offices and 27 out of 99 District/Divisional and Wildlife offices were test checked by audit during July 2007 to March 2008.

The units for audit check were selected based on their revenue generation and their activities such as leasing of the forest land for non-forestry purposes; sale of sandalwood, teakwood and other social forestry produce such as babul and supply of raw materials to the wood based industries etc. The revenue of the 27 district/divisional offices selected for audit constituted 86 *per cent* of the total revenue in 2006-07.

5.6.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Forest Department in providing necessary information and records for audit. At the outset an entry conference was held in July 2007 with the PCCF, and other departmental officers. He was apprised of the objectives of the

review taken up by audit. The draft review was forwarded to the Government and to the department in May 2008 and was discussed in the meeting of the audit review committee held in July 2008. The Government was represented by the Secretary to the Government and the department was represented by the PCCF. The view point of the Government and that of the department have been incorporated in the respective paragraphs of the report.

Audit findings

5.6.6 Trend of revenue collection

5.6.6.1 The annual budget estimates were prepared by each District/ Divisional Forest Officer and Wildlife Warden in respect of his division and submitted to the Conservator of Forests who in turn sent these to the PCCF for consolidation and submission to the Government.

A comparison of the budget estimates (BE) and the actual receipts is given below:

(Rupees in crore)

Year	Budget Estimates	Actuals	Excess (+) Shortfall (-)	Percentage of variation
2002-03	110.18	157.44	(+) 47.26	(+) 43
2003-04	146.18	90.21	(-) 55.97	(-) 38
2004-05	100.07	155.07	(+) 55.00	(+) 55
2005-06	126.22	138.59	(+) 12.37	(+) 10
2006-07	171.38	82.31	(-) 89.07	(-) 52

It would be seen from the above that the variation between the BE and the actuals ranged between (-) 52 to (+) 55 *per cent* indicating that the BEs were not realistic. There was practically no matching of estimates and actuals in any of the year which indicated poor budgeting. Besides, there were no instances of monitoring/review of the revenue by the higher authorities of the department to ensure realisation of the budgeted receipts.

After this was pointed out, the PCCF stated in July 2008 that the Government had fixed the BE more than those proposed by the department.

5.6.6.2 Arrears of revenue

The DCB register for watching the arrear position was not maintained in the PCCF office. As per the information furnished to audit, the total revenue pending for collection as on 31 March 2007 was Rs. 145 crore. Of this, the arrears pertaining to lease rent alongwith interest and penal interest amounted to Rs. 142 crore. The major defaulters of the lease rent are given below:

Arasu Rubber Corporation	- Rs. 73.20 crore since 1984-85
Tamil Nadu Electricity Board	- Rs. 26.30 crore since 1961-62
Tamil Nadu Tea Plantation Corporation	- Rs. 21.71 crore since 1975-76

System Deficiencies

5.6.7 Delay in preparation of the working plans

A working plan is a document prepared for a period of 10 years which contains detailed schemes for management of the silvicultural operations. The forest produce resulting from these operations generates revenue for the Forest Department. Non-existence of a working plan has a major impact on the growth and regeneration of the forests. It also leads to stoppage of all the activities relating to extraction of the forest produce which affect the receipts of the department. Hence, it is in the interest of the environment as well as the department that the working plans are prepared and approved well in advance.

There are 29 territorial divisions in the State for which separate working plans are required to be prepared. Out of these, 13 working plans for various periods have been approved and in the remaining 16 divisions, the working plans had expired between March 1999 and March 2007. Of these, working plans of two divisions (Tirunelveli and Thoothukudi) were sent to the GOI for approval in July 2007 and the remaining 14 working plans were pending at various stages in the department, though the National Working Plan Code provides for finalisation of a working plan of a division two years in advance of expiry of the existing plan so as to allow sufficient time for obtaining the sanction of the GOI.

Delay in preparation of the working plans indicated that the monitoring mechanism was weak and ineffective. Non-preparation of the new working plans before expiry of the existing working plans resulted in deferring of timber extraction and revenue from the divisions.

After the cases were pointed out, the department while accepting the facts, stated that the existing four working plan officers were not sufficient and the backlog was being cleared by involving the territorial Conservators of Forests.

5.6.8 Leasing of the forest land

The forest lands are leased out to various Government departments and public sector undertakings for non-forestry purposes. The lease rent payable by the user agencies is fixed/revised by the Government from time to time. As per the information furnished by the PCCF in March 2008, there were 276 cases of use of the forest land for non-forestry purposes. Of the above, 133 cases were scrutinised by audit in 19 divisions and the findings are mentioned below:

5.6.8.1 Short demand of lease rent

The Government order (GO) dated July 1986 prescribed the rate of lease rent for various categories of lease of the forest lands. These rates were enhanced and were required to be revised after every three years as per the GO dated April 1991. No return was, however, prescribed by the PCCF to watch the timely revision of the lease rent.

Test check of records in five District Forest/Wildlife Warden Offices[5], revealed that there was short demand of lease rent of Rs. 2.03 crore from five[6] user agencies due to failure of the department to refix the market value of the forest land once in three years as mentioned below:

(Rupees in crore)

Sl. No.	Name of the office	Name of the user agency	Nature of observation	Demand to be raised	Demand actually raised	Short demand
1.	Wildlife Warden IGWS, Pollachi	TNEB for Parambikulam Aliyar Project	The land was allotted at a nominal price of Re.1/acre per annum in 1961-62. This has not been revised subsequently as per the GO mentioned above.	1.03	0.10	0.93
After this was pointed out, the PCCF stated in July 2008 that demand for the entire amount had been raised and sent to TNEB for the period upto 2007-08. Action was being taken for collection which includes interest and penal interest.						
2.	DFO, Salem	Tamil Nadu Magnesite Ltd. (TANMAG)	The lease for an extent of 177.96 hectares was renewed vide GO dated August 1998 for a period of 10 years from 1998 to 2008. However, the lease rent was not revised after every three years.	2.28	1.75	0.53
After this was pointed out, the PCCF stated in July 2008 that demand notice had been issued to TANMAG by the DFO Salem on 25 June 2008 for the entire amount.						
3.	DFO, Nagercoil	TNEB for the Kodayar Hydro Electric Project	An extent of 133.24 acres was leased out from 1966-67 at Rs. 6,885 per annum. The lease rent was not revised subsequently.	0.23	0.09	0.14
		Tamil Nadu Agricultural University	An extent of 28.25 acre was leased out from 1976. Though the lease was fixed initially at a nominal rate of Rs. 1,071 per year, the same had not been revised subsequently.	0.17	0.06	0.11
After this was pointed out, the PCCF stated in July 2008, that revised demand had been raised in June 2008.						

5 Kancheepuram, Nagercoil, Nilgiris (North), Pollachi and Salem

6 Hindustan Photo Films Manufacturing Company Ltd., National Highway Authority of India, Tamil Nadu Magnesite Limited, Tamil Nadu Electricity Board and Tamil Nadu Agricultural University.

4.	DFO, Nilgiris (North)	Hindustan Photo Films Manufacturing Company Ltd.	An extent of 90 acres was leased out from 1988-89. The lease rent was fixed as per the instructions contained in the GO issued in 1986. However, the rent was not revised subsequently.	1.60	1.31	0.29
After this was pointed out, the PCCF stated in July 2008 that revised demand had been raised in April 2008.						
5	DFO, Kanchee-puram	National Highway Authority of India	An extent of 2.025 hectares of forest land was leased out on 2 May 2001 vide GO dated 20 June 2000. The lease rent was fixed at Rs.one lakh per annum. However, the lease rent has not been revised resulting in non-realisation of lease rent of Rs. 3.22 lakh upto March 2007.	0.03	Nil	0.03
After this was pointed out, the PCCF stated in July 2008 that demand had been raised by the DFO Kancheepuram in January/April 2008.						
			Total			**2.03**

The department had not evolved any mechanism for monitoring periodical revision and collection of the lease rent.

5.6.8.2 Non-execution of lease agreement

Test check of the records in the office of the DFO, Hosur revealed that an extent of 20.980 hectares of the forest land in Kothur Reserve Forest was handed over to the Railway Department in the year 1975 for the project "Doubling of track between Jolarpettai and Mulanur". The CF, Vellore recommended the grant of the land on lease to the Railways in June 1993 to the PCCF. However, orders for grant of lease of the land to the Railways have not been issued by the PCCF resulting in non-realisation of lease rent of Rs. 38 lakh.

After this was pointed out, the PCCF stated in July 2008 that demand had been raised by the DFO, Hosur in June 2008. However, the reply of the department was silent about the grant of lease of the land to the Railways.

5.6.9 Internal audit

Internal audit is meant to ensure compliance with laws, rules and departmental instructions. It helps in carrying out correct assessment, speedy collection of revenue and prevention and detection of fraud and other irregularities.

The department has an Internal Audit Wing headed by an Assistant Director (Internal Audit). Three parties have been sanctioned for the wing each consisting of one Superintendent and two Assistants. However, the actual strength of the wing was only one Superintendent and one Assistant. It was stated that two audit parties were in operation and two draughting officers were posted to the wing. Even then, there was a shortage of one Superintendent and one Assistant in the parties in operation at present.

There were 113 units of audit. As per the information furnished to audit, the number and age of the units not taken up for audit are mentioned below:

Period of Pendency		No.of units
Units not taken up for audit for one year	:	23
Units not taken up for audit for two years	:	02
Units not taken up for audit for three years	:	53
Units not taken up for audit for four years	:	35

The department stated that the units could not be audited due to non-availability of audit staff. The control registers relating to audit planning, issue and disposal of the inspection reports and observations raised by internal audit wing were not maintained. As such, audit could not ascertain the efficiency and effectiveness of working of the internal audit wing.

The Government may strengthen the internal audit wing to ensure timely conduct of audit and prescribe the necessary registers to enhance the overall control and performance of the wing.

5.6.10 Failure to follow the provisions of the MMDR Act resulted in loss of revenue

Under the provisions of the Mines and Minerals (Development and Regulation) Act, the State Government may allot land for extraction of the mineral subject to the payment of royalty at the rates prescribed by the GOI from time to time. The rate of royalty payable for magnesite was three *per cent* on ad valorem basis and it ranged between Rs. 52 and Rs. 60 per MT.

Test check of the records in the office of the DFO Salem, revealed that the Government in August 1998 entered into an agreement with a lessee, leasing forest land of 177.96 hectares for extraction of magnesite and dunite. Scrutiny of the agreement deed revealed that the royalty for the minerals was fixed at the rate of Rs. 25 per MT which was less than that payable under the MMDR Act. The department had at no time reviewed the agreement, though the MMDR Act stipulated that revision of the rates might be done once in three years. Thus, faulty agreement and failure of the department to review the agreement resulted in a minimum loss of Rs. 1 crore to the Government for the years from 2004-05 to 2006-07 as mentioned below:

(Rupees in lakh)

Year	Quantity transported in MT	Royalty paid @ Rs. 25 per MT	Royalty to be paid @ Rs. 52 per MT	Short levy
2004-05	1,17,234.600	29.31	60.96	31.65
2005-06	1,30,671.390	32.67	67.95	35.28
2006-07	1,23,012.960	30.75	63.97	33.22
Total				100.15

After this was pointed out, the DFO, Salem stated in August 2007 that royalty at the enhanced rate would be demanded and collected.

Compliance Deficiencies

5.6.11 Blockage/loss of revenue due to non-felling of matured trees

5.6.11.1 Eucalyptus

As per the DFO Chengalpattu's letter dated February 2006, the rotation for felling of eucalyptus trees is eight years from the date of its planting. As per Section 3(1) of the Tamil Nadu Hill Areas (Preservation of Trees) Act, 1955, the District Committee headed by the Collector has been empowered to grant permission for harvesting the trees in the social forest and toda lands. The revenue earned by this exploitation is to be shared between the panchayats and the Government in the ratio of 60:40.

- Test check of the records in the office of the DFO, Nilgiris North and South revealed that 26,725.958 MTs of eucalyptus trees valued at Rs. 5.16 crore available for exploitation in the social forest and toda lands was allotted to a company. However, the trees could not be exploited as permission of the District Committee being a pre-requisite was not obtained. This resulted in blockage of revenue to the extent of Rs. 2.03 crore since 2006.

- Test check of the records in the offices of the DFO, Chengalpattu and Salem revealed that 8,526.343 MTs of eucalyptus hybrid trees valued at Rs. 1.54 crore could not be felled due to subsequent raising of younger plants under the eucalyptus hybrid trees. The trees were planted more than 15 years ago and are overdue for felling. This resulted in non-realisation of revenue of Rs. 1.54 crore since 2005-06.

After this was pointed out, the DFO, Salem stated (August 2007) that gap planting would be carried out in future after ascertaining the ground position.

- Test check of the records in the office of the DFO, Tiruvallur revealed that the estimated yield of eucalyptus hybrid trees was 3,714.429 MTs and the actual removal of eucalyptus hybrid trees was 2,870.320 MTs. Thus, there was less yield by 843.699 MTs. This resulted in loss of revenue of Rs. 16 lakh.

After this was pointed out, the DFO, Tiruvallur stated in February 2008 that the contractors engaged for felling the trees had not followed the felling rules and left large stumps in the field. Further, the PCCF stated in July 2008 that

explanation for shortfall from the Range Officers, Ponneri and Red Hills had been called for. Further reply has not been received (November 2008).

5.6.11.2 Bamboos

As per the working plans, bamboos more than seven years old are required to be harvested. In cases, where the felling of bamboos is not covered by working plan, the DFO concerned are empowered to issue orders for felling of the matured bamboos after obtaining special permission from the PCCF.

Test check of the records in the offices of DFO, Thanjavur and Salem, revealed that 1,795 MTs of matured bamboos available in the river banks were allowed to die and decay. Timely action was not taken by obtaining special permission for their harvest. This resulted in loss of revenue of Rs. 31 lakh.

5.6.11.3 Teak

Test check of records in the office of the DFO Thanjavur revealed that 477.507 cubic metres of wind fallen teakwood were not collected during 2006-07 due to non-allocation of funds. This resulted in non-realisation of revenue of Rs. 56 lakh.

5.6.12 Non-levy of lease rent

Test check of the records in the offices of DFO, Attur and Dharmapuri revealed that an extent of 14.430 hectares was leased out to M/s. Tamil Nadu Minerals Limited (TAMIN) for two mining quarries. However, lease rent was not demanded by the department. This resulted in non-realisation of lease rent of Rs. 14.33 lakh as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the DFO	Nature of irregularity	Amount of lease rent due
1.	Attur	An extent of 11.840 hectares was leased from 1989. Lease rent was not demanded for the period from 17 February 1989 to 31 March 2007.	12.83
After this was pointed out, the DFO Attur stated in March 2008 that the lease rent as pointed out by audit would be demanded from TAMIN.			
2.	Dharma-puri	An extent of 2.590 hectares was leased from 1983. Lease rent for the period from 1 July 1983 to 31 March 2007 has not been demanded. As the guideline value for the land for the period 1 July 1983 to 30 June 2003 was not known, audit could not work out the exact amount of lease rent due. Lease rent for the period from 1 July 2003 to 31 March 2007 has been worked out based on the available guideline value.	1.50
After this was pointed out, the DFO Dharmapuri stated in March 2008 that the lease rent as pointed out by audit would be demanded from TAMIN.			
		Total	**14.33**

5.6.13 Non-collection of the land cost

An extent of 604.93 hectare of land of the defunct Tamil Nadu State Farm Corporation was purchased by the Forest Department. Out of which, 240.39 hectares of land was handed over to M/s. Neyveli Lignite Corporation (NLC) on 13 July 1990 on outright sale basis. However, the cost of the land has not been fixed and collected by the department even after a lapse of 17 years. Based on the guideline value communicated by the District Revenue Officer, the land cost to be collected from NLC worked out to Rs. 1.60 crore (at 1990 price).

After this was pointed out, the PCCF stated in July 2008 that on receipt of orders from the Government for land value, necessary demand would be raised on NLC.

5.6.14 Short realisation of lease rent

5.6.14.1 As per the Government order dated 21 July 1986, the rate of lease rent for tourism was three *per cent* of the market value and for industrial and commercial purposes the rate was 10 *per cent* of the market value of the land. The rates were enhanced to five and 12.5 *per cent* respectively by a GO issued in April 1991.

5.6.14.2 The Government vide orders dated 26 March 1900 leased out 193.56 acres of the forest land to the Gymkhana Club, Udhagamandalam which is a commercial organisation. The lease rent of Rs. 1.37 crore was demanded from time to time by the department at three *per cent* of the market value of land from 21 July 1986 and at five *per cent* from 15 April 1991 upto 31 March 2007 instead of Rs. 5.18 crore at the rate of 10 *per cent* and 12.5 *per cent* respectively. This resulted in short raising of demand of Rs. 3.81 crore.

After this was pointed out, the PCCF stated in July 2008 that demand for Rs. 6.52 crore (including interest) had been raised in January 2008. However, the reply was silent about the rate adopted for the levy of lease rent.

5.6.14.3 The Government vide orders dated 16 November 1972 leased out 98.05 acres of the forest land to Kodaikanal Golf Club. Though there was no need to send the proposal in view of the GO specifying the rate of lease rent, the PCCF had recommended to the Government in May 1998 a lease rent of five *per cent* which was applicable to the lands allotted to tourism. Again in January 2007, the DFO, Kodaikanal had issued notice to the Club demanding the lease rent of Rs. 2.56 crore at one *per cent* as applicable to "other welfare purposes". The rates fixed by the department were not correct as the Golf Club was running on commercial lines collecting membership fees from its members and as such it was liable to pay lease rent at the rates of 10 *per cent* upto April 1991 and at 12.5 *per cent* thereafter. At these rates, the club was liable to pay lease rent of Rs. 68.69 crore for the period from 1986-87 to 2006-07. This resulted in short raising of demand of Rs. 66.13 crore. However, the club did not even pay the amount of Rs. 2.56 crore demanded by the DFO. In the absence of payment of any rent by the Golf Club, PCCF

should have taken action to cancel the lease and resume the land for forestry purpose which was not done.

After this was pointed out, the PCCF stated in July 2008 that demand had been raised in January 2008. However, the reply was silent about the amount and the rate adopted for the levy of lease rent.

Sale of forest products

5.6.15 Inconsistency in determining the price of sandalwood

5.6.15.1 In accordance with the GO issued from time to time, the department fixed the fair price for open sale of sandalwood as average price fetched in the previous auctions conducted in three[7] depots. However, with effect from April 2002 in respect of Tamil Nadu Forest Plantation Corporation Limited (TAFCORN), the fair price was fixed based on the average price fetched in the three previous auctions conducted in a godown from which the sandalwood was sold.

Test check of the records revealed that the department sold 261.500 MTs of sandalwood to TAFCORN. The value of the sales as per the pre-revised procedure was Rs. 34.77 crore but the department received Rs. 28.10 crore. This resulted in loss of revenue of Rs. 6.67 crore to the Government for the period from 2002-03 to 2006-07.

5.6.15.2 Delay in determining the price

In Tirunelveli division, 106 lots of timber were kept for sale at Shencottai and Courtallam Timber Depots since 2004-05. The DFO had recommended a fair price of Rs. 21.91 lakh in August 2007. Though there was protracted correspondence between the CF and DFO, the fair price has not been fixed till date and as such the timber could not be disposed of. As the stacked timber were being attacked by white ants and the softwood is prone to getting decayed by the vagaries of nature, the delay in fixing the fair price may result in a loss of revenue of Rs. 21.91 lakh.

5.6.16 Forest offences

As per sub-section 3 of Section 49 A of the Tamil Nadu Forest (Amendment) Act 1992, the confiscated property should be sold by public auction and if the order of confiscation is set aside or annulled subsequently, the proceed thereof after deduction of the expenses can be paid to the owner thereof.

Test check revealed that 169 vehicles confiscated prior to 1992 and 458 vehicles confiscated after 1992 were pending for disposal in 11 Circles[8], though the vehicles confiscated after 1992 could be sold pending disposal of the cases by the courts. The PCCF attributed (November 2007) the pendency to non-fixing of fair price by the Motor Vehicles Maintenance Organisation and appeals made in the court by the owners of the confiscated vehicles, etc.

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7 Salem, Satyamangalam and Tirupattur

8 Chennai, Coimbatore, Dharmapuri, Dindigul, Erode, Madurai, Salem, Trichy, Triunelveli, Vellore and Villupuram

As the seized items were kept exposed to the vagaries of weather, delay in disposal would further deteriorate their condition and fetch less revenue. Hence, effective action to dispose off the confiscated properties under the above mentioned Act is required to be taken to avoid loss/blockage of revenue.

5.6.17 Non-collection of the departmental share from the Panchayats

The Social Forestry plantations are harvested through the agency of contractors/village panchayats. The revenue realised from the sale of these plantations is shared between the panchayat and the department in the ratio of 60:40.

It was noticed that in two Social Forestry divisions (Madurai and Sivagangai), the departmental share of 40 *per cent* amounting to Rs. 7.36 lakh due in 1990-91 and 1991-92 was not collected from 11 panchayats. Further, sales details of the plantations in respect of 20 panchayats (Madurai-3 ; Sivagangai-17) were not furnished to audit.

After this was pointed out, the DFOs (Social Forestry) Madurai and Sivagangai stated in February and March 2008 that action was being taken to collect the amount from the panchayats concerned.

5.6.18 Delay in disposal of not road worthy vehicles

In 14 divisions, 63 'not road worthy vehicles' were kept idle for the past one to 15 years without disposal. To this the PCCF stated (July 2008) that orders confirming the sale had been issued in three cases in March 2008 and orders for condemnation of the vehicles had been received in seven cases from the Motor Vehicles Maintenance Organisation, which has also been addressed for disposal of the vehicles through auction. Proposals for condemnation of 29 vehicles had been sent to the Government and orders were awaited. As regards the balance 24 vehicles, follow up action was being taken for their speedy disposal. As the vehicles are kept exposed to the vagaries of weather, delay in disposal would further deteriorate the condition of vehicles and fetch only lower revenue on sale. Hence, effective action/follow-up action is needed to be taken to dispose of the vehicles to realise better value.

5.6.19 Conclusion

The review disclosed delay in preparation of the working plans leading to blockage of revenue due to non-felling of the matured trees at the appropriate time. The department had not developed a strong mechanism to demand the lease rent correct and timely. There was delay and incorrect fixation of the fair price for disposal of woods. Budgeting of the revenues and monitoring of collection of the revenue including arrears were deficient. The department had no conscious plans and efforts to augment the receipts from forest.

5.6.20 Summary of recommendations

The Government may consider to:

- closely monitor preparation of the working plans so that approval of the same can be obtained from the Government of India well before expiry of the working plans in operation;
- prescribe a return to ensure the periodical revisions and collection of the lease rent and ensure that the lease rent is correctly and promptly demanded and collected by the field units; and.
- install a system of reviewing the agreements entered with the contractors from time to time to safeguard the Government revenue and also consider strengthening the internal audit wing in the department so that deficient agreements and procedures are brought to the notice of the higher authorities from time to time.

E - PUBLIC WORKS DEPARTMENT

5.7 Non-issue of licenses to the public buildings resulting in non-realisation of licence fees

The Tamil Nadu Public Buildings (Licensing) Act, 1965 provides for inspection and licensing of the public buildings. Public building means any building used as school, college, university, hostel, library, hospital, club, lodging/boarding house, marriage hall, community hall, etc. According to Section 3 of the Act, all public buildings shall be used only under a valid licence obtained from the competent authority on payment of the prescribed fees. The Tahsildar is the competent authority to issue licenses on application by the owners of the buildings. The licence granted is valid for a period of three years. The rate of fee varies from Rs. 10 to Rs. 5,000 depending on the nature and value of the buildings.

Test check of the records in five[9] taluk offices during the period between November 2005 and December 2007 revealed that owners of 227 public buildings did not apply for licenses and hence licenses were not granted. In Perundurai taluk in respect of 26 marriage halls and four schools, even though licence fee of Rs. 1.34 lakh was to be collected, only a sum of Rs. 8,425 was collected. These deficiencies led to non/short levy of licence fees of Rs. 12.61 lakh.

After the cases were pointed out between February 2006 and January 2008, the department replied between July 2006 and December 2007 that action would be taken to collect the amount. Further reports have not been received (November 2008).

[9] Aranthangi, Madurai (South), Mettupalayam, Perundurai and Wallajah.

The matter was reported to the Government in January/February 2008; their reply has not been received (November 2008).

Chennai,	**(S.MURUGIAH)**
The	**Accountant General**
	(Commercial and Receipt Audit)
	Tamil Nadu

Countersigned

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	of India

COMPTROLLER AND AUDITOR GENERAL OF INDIA
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